



Article 13. Participation of society

1. Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption. This participation should be strengthened by such measures as:

- (a) Enhancing the transparency of and promoting the contribution of the public to decision-making processes;
- (b) Ensuring that the public has effective access to information;
- (c) Undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula;

UKUHLOLISISA KWENHLANGANISO EZIZIMELE ZODWA

phezu kwemizamo ethethwe yiZimbabwe njengengxenye yokugcwalisisa izinqumo zeSahluko Sesibili (Ukwenqabela) leSahluko Sesihlanu (Ukubuyiselwa komnotho) okumunyethwe kusivumelwano samazwe wonke ekuvikeleni lokulwisana nenkohlakalo lobugelekeqe

UNITED NATIONS CONVENTION AGAINST CORRUPTION

Ugwalo lolu luphawulwe yiAnti-Corruption Trust of Southern Africa (ACT-SA)

Isivuno

Umbiko lo uqoqa umsebenzi ongenamkhawulo wamalunga awenhlango yeResearch and Advocacy eye-Anti-Corruption Trust of Southern Africa (i-ACT-SA ngokufinyezwa). Amalunga ethule ulwazi agoqele uDr. Prosper Maguchu, Obert Chinhamo, Alouis Munyaradzi Chaumba, uMunyaradzi Bidi, igqwethakhulu uAdvocate Gabriel Shumba.

Inhlanganiso ye ACT-SA ithanda ukubonga umnumzane Khlowani Nyathi ngokuhumutsha liripoti eyisusa esiNgisini eyisa kulimi lwesiNdebele.

Kwengezwa ezinye inhlanganiso ezengeze ulwazi lwamagama ezigoqela iTransparency International- Zimbabwe, i-Interfaith Council for Peace and Justice Trust, iKwekwe Business Association for the Small to Medium Enterprises Trust, iKwekwe Vendors' Association, iLegal Resources Foundation, leZimbabwe Network for Social Justice, iZimbabwe Human Rights Association leZimbabwe Election and Advocacy Trust, lezinye ezingaqanjwanga lapha.

Kuyengezwa futhi amalunga awezinhlango zeCommunity Anti-Corruption Monitoring Voluntary Action ezibuziweyo ngesikhathi sokuchwayisisa. Izinhlanganiso lezo zivela emadolobheni alandelayo: eKwekwe, eGokwe, eGweru, eMutare, eMasvingo, eBeitbridge, eChinhoyi leVictoria Falls.

Inhloso bekungeyokupha ulwazi olufaneleyo ekuhlolisiseni kwelizwe okwenziwe yi-UNCAC elizweni leZimbabwe okusehlandleni lesibili. Lo umbiko olinganiseneyo ulotshwe yinhlanganiso ye-ACT-SA, usebenzisa izimpahla zokuhlola lokuqondisa kohlelo lombiko olwadalulwa yinhlanganiso ye-UNCAC Coalition le Transparency International. Ukukhitshwa lokupapashwa kwalombiko kusekelwe kwahlonyulelwa yi-UNCAC Coalition, okwenze yaphumelela ngokubhadala izimali eziphiwe yinhlanganiso yamazweni iNorwegian Agency for Development Cooperation (iNorad ngokufinyezwa) kanye leMinistry of Foreign Affairs yelizwe leDenmark (iDanida ngokufinyezwa). Imininingwane ebukiswa itholakele kulombiko ngeyinhlanganiso yabe-ACT-SA okungamelanga ihunyutshwe sangani xathu ibika imicabango lemibono yabe-UNCAC Coalition kanye labaphi bezimali abenze ukuba lombikoubhalwe njaloukhitshwe.

Asetshenzisiwe onke amandla ukuba yonke imininingwane elotshwe embikweni lo ihluzisiswe ibethe iqiniso kuphela lolwazi olufanele ukumunyathwa ngumbikowalolu uhlobo. Lonke ulwazi olumunyethwe yiwo kukholwa ukuba beluqondile ngoDecember 2020.

Ihlelwe yinhlanganiso ye-Anti-Corruption Trust of Southern Africa (i-ACT-SA ngokufinyezwa)

Ikheli: Number 16, 2nd Avenue, Kwekwe, Zimbabwe

Ifoni: +263(0)552525235 - E-mail: actsouthernafrica@gmail.com

Abahloli: uDanella Newman loMathias Huter, abe-UNCAC Coalition

Inhlanganiso ye-Anti-Corruption Trust of Southern Africa (iACT-SA) yinhlangano yezakhamuzi yomhlubulo wezwekazi ekhokhela impi yokugqibulana lokukhohlakala emazweni aweSouthern Africa. Isebenzelana isekelana labameli balinhlanganiso amaNational Focal Points elizweni leBotswana, eComoros, eDRC, eTanzania, eNamibia, kanye leSouth Africa labakhulu bama bhizimusi acathulayo, abenhlanganiso zezakhamuzi kanye lemiphakathi, inhlanganiso ye-ACT-SA ikhulisa ukunanzelela lokubona umonakalo odalwa yikukhohlakala ekukhuphuleni amazwe. Isebenza ukuthuthukisa lokuqonda izinqumo ezifaneleyo zokunqoba lokuqeda ukukhohlakala. Ibuya yengeze inhlanganiso ye-ACT-SA ngokuqoqa izichwayisiso zolwazi lokwenqabela inkohlakalo lobugelekeqe, iqoqe ndawonye ubufakazi bezindlela ezisebenzayo lezingasebenziyo ekulweni lokukhohlakala, ihlanganise imisebenzi ehambelanayo yenhlangotho zezakhamuzi ibe isikhokhela ekumeleni lekukhulumeleni abantu abasola ukukhohlakala emazweni aweSouthern Africa.

UHLELO LWESENANISO

ULUHLU LWEZIFINYEZO	1
ULUHLU LWABANTU ABANCEDISAYO	2
I. ISINGENISO.....	3
II. IQOQONZULU	5
a) Ukuchaza ingqubo.....	7
b) Ukutholakala kolwazi.....	7
c) Ukubekwa kwezivumelwano emthethweni lokuphoqelelwa kwawo	7
d) Iziqondiso ezimqoka ezokusebenza okuqakathekileyo.....	10
III. UKUHLOLA IZINDLELA ILIZWE LEZIMBABWE ELIHLOLWE NGAZO	11
a) Umbikowendlela yokuhlola.....	11
b) Ukufinyelela ulwazi.....	12
IV. ISINQUMO SOKUSEBENZISA IMIGOMO YABOCHAPTER II LO V	13
1. Isahluko (Chapter) II –Izindlela zokuvimbela inkohlakalo lobugelekeqe	13
1.1 Isivumelwano Sesihlanu (Article 5) –Imigomo lemikhuba yokwenqabela inkohlakalo.....	13
1.2 Isivumelwano Sesithupha (Article 6) – Izinhlanganiso zokwenqabela inkohlakalo.....	15
1.3 Isivumelwano Sesikhombisa (Article 7) – Uhlandla lukazulu	24
1.4 Isivumelwano Sesitshiyagalo mbili (Article 8) – Imithetho yokuziphatha yezisebenzi zikazulu	27
1.5 Isivumelwano Sesitshiyagalo lunye (Article 9) – Ukuqoqa lokusebenzisa izimali zikazulu.	30
1.6 Isivumelwano Satshumi (Article 10) – Izindlela zokubikela uzulu.....	33
1.7 Isivumelwano Satshumi namunye (Article 11) - Izinqumo eziphathelane logatsha lwezemithetho labatshutshisi.	35
1.8 Isivumelwano Satshumi nambili (Article 12) – Umnyango wenhlanganiso ezizimeleyo	37
1.9 Isivumelwano Satshumi lantathu (Article 13) – Ukusebenzelana lozulu.....	39
1.10 Isivumelwano Satshumi nane (Article 14) - Indlela zokuvikela ukutshaphazwa lokuhuquluzwa kwemali	41
2 Isahluko Sesihlanu (Chapter V) - Ukubuyiselwa komnotho	43
2.1 Isivumelwano Samatshumi amahlanu lamunye (Article 51) - Izinqumo Jikelele, Isivumelwano Samatshumi nasithupha (Article 56) - Ukusebenzelana Mqoka, LeSivumelwano Samatshumi natshiyagolo munye (Article 59) - Izivumelwano phakathi kwamazwe amabili laphakathi kwamazwe amanengi.	43
2.2 Isivumelwano Samatshumi amahlanu nambili (Article 52) - Ukuvimba lokulonda ukuhuquluzwa kwenzuzo yokuganga le Sivumelwano Samatshumi amahlanu nasifika minwe mibili (Article 58) – Ugatsha lwabacuphi bezemali (Financial Intelligence Unit).....	44
2.3 Isivumelwano Samatshumi amahlanu nantathu (Article 53) Indlela zokubuyisela impahla, Isivumelwano Samatshumi amahlanu nane (Article 54) Indlela zokubuyisela izimpahla ngokusebenzelana lamanye amazwe omhlaba endabeni zokuthumba le Sivumelwano Samatshumi amahlanu nanhlano (Article 55) Ukumanyana lokuphathisana kwamazwe endabeni zokuthumba umnotho ogwedlulelwe phandle kwelizwe.....	46
2.4 Isivumelwano Samatshumi amahlanu lasikhombisa (Article 57) - Ukubuyiselwa lokwabelwa kwomnotho ophendukisiweyo	47
V. INTHUTHUKO ESANDA KWENZEKALA	48

VI. IZIQONDISO	49
Iziqondiso ezimqoka.....	49
Iziqondiso ezimayelana lesahluko Sesibili (Chapter II) se UNCAC.....	49
Iziqondiso ezikhangelelweyo eZimbabwe: Okuqondiswayo kuZAAC.	50
Iziqondiso eziphathelele leSahluko Sesihlanu (Chapter V) se-UNCAC.....	50
VII. ISANDISO	51
INHLELANGWALO	51

Uluhlu lwezifinyezo

Isifinyezo	Iselulo
ACA	Anti-Corruption Agency
ACT-SA	Anti-Corruption Trust of Southern Africa
AML	Anti-Money Laundering
AFU	Assets Forfeiture Unit
ARIANSA	Asset Recovery Inter-Agency Network for Southern Africa
AU	African Union
AUCPCC	African Union Convention on Preventing and Combating Corruption
CFT	Combating the Financing of Terrorism
CSOs	Civil Society Organisations
CIO	Central Intelligence Organisation
ConCourt	Constitutional Court
DRC	Democratic Republic of Congo
FIU	Financial Intelligence Unit
FTLRP	Fast Track Land Reform Programme
INTERPOL	International Criminal Police Organisation
ICJ	International Committee of Jurists
IRG	Implementation Review Group
JSC	Judicial Service Commission
ML	Money Laundering
NANGO	National Association of Non-Governmental Organisations
NECF	National Economic Consultative Forum
Nat Pharm	National Pharmaceutical Company
NPA	National Prosecuting Authority
NSSA	National Social Security Authority
OPC	Office of the President and Cabinet
PACU	Police Anti-Corruption Unit
PSC	Public Service Commission
PRAZ	Procurement Regulatory Authority of Zimbabwe
PG	Prosecutor General
PEPs	Politically Exposed Persons
PCCD	Police Commercial Crimes Division
RBZ	Reserve Bank of Zimbabwe
SACU	Special Anti-Corruption Unit
SADC	Southern African Development Community
SPAC	SADC Protocol against Corruption
SALC	Southern Africa Litigation Centre
TAB	Training Advisory Board
TF	Terrorist Financing
TI-Z	Transparency International- Zimbabwe
UN	United Nations
UNCAC	United Nations Convention against Corruption
UNODC	United Nations Office on Drugs and Crime
VIP	Very Important Person
ZACC	Zimbabwe Anti-Corruption Commission
ZIFA	Zimbabwe Football Association
ZIMDEF	Zimbabwe Manpower Development Fund
ZIMLII	Zimbabwe Legal Information Institute
ZIMRA	Zimbabwe Revenue Authority
ZRP	Zimbabwe Republic Police

Uluhlu lwabantu abancedisayo

Ref.	First Name	Surname	Umsebenzi lenhlanganiso
1	Alan	Chaumba	Academic researcher/ umcwayisisi
2	Muchaneta	Mundopa	Transparency International- Zimbabwe
3	Jackie	Ngulube	Interfaith Council for Peace and Justice Trust
4	Bernard	Kafesu	Legal Resources Foundation
5	Munyaradzi	Bidi	Anti-Corruption Trust of Southern Africa
6	Gabriel	Shumba	Anti-Corruption Trust of Southern Africa
7	Alouis	Chaumba	Anti-Corruption Trust of Southern Africa
8	Antony	Chihya	Makonese, Chambati&Mataka Legal Practitioners/ amagqwetha
9	Tuesday	Moyo	Zimbabwe Human Rights Association
10	Tendai	Mbofana	Zimbabwe Network for Social Justice
11	Jabulisa	Tshuma	Zimbabwe Human Rights Association
12	Ignatius	Sadziwa	Zimbabwe Election Advocacy Trust
13	Vincent	Ruzvezve	Academic researcher/umcwayisisi
14	Tonderai	Marindire	Jekeso Newspaper
15	Alfred	Mnkandla	Kwekwe Business Association of the Small to Medium Enterprises
16	Eric	Msesengwe	Kwekwe Publicity Association
17	Michael	Hanyani	Kwekwe Business Association of the Small to Medium Enterprises

Uxolo; nanzelela ukuba abasebenzi bakahulumende leminyango kahulumende ayiphendulanga kumbe ithumele ulwazi olwaluthungathiwe ukuze luqoqelwe lonke ku mbiko lowu.

I. Isingeniso

Ilizwe leZimbabwe lasayina iUnited Nations Convention against Corruption (iUNCAC ngokufinyeza) ngo20 Nhlolanja 2004 laselivumela ukubaphansi kwalo umthetho ngo8 Mbimbitho 2007. Lo mbiko uhlolisisa izindlela ilizwe leZimbabwe elifeze ngazo ukusetshenziswa kwezimiselo ezikhetheziweyo esahlukweni sesibili uChapter II (Ukuvinjelwa) kanyeloChapter V (Ukubuyiselwa kwempahla) we-UNCAC. Umbiko loukhithshelwe ukwengeza emisebenzini ye-UNCAC yokusebenzisa ukuhlolwa kwezokukhohlakala lobugelekeke okugoqelwe yizahluko zombili. IZimbabwe yakhethwa liqembu lokuhlola le-UNCAC Implementation Review (i-IRG ngokufinyeza) ngesikhathi sokuhlolisisa emnyakeni wesibili wehlandla lokuqala lokufeza izinqumo. NgoNkwenkwezi 2019, iqula lamalunga ayisithupha lamazwe abumbeneyo lathunywa yinkundla yezizwe zomanyano (i-United Nations), livela e-Angola leCape Verde langena elizweni ukuzohlola izindlela lezinqumo ezasezithethwe yiZimbabwe njengengxenye yemizamo yokufeza uChapter II loV wesivumelwano sokulwisana lokuvikela ubugelekeke eseUNCAC. Kusakela ngoNkwenkwezi 2019 kusiza khathesi umbikowelizwe ophelileyo usukhitshiwe kodwa usese yisiqoqonzulu esikhitshwe ebulenjini emakhasini ohlangathi lwesimo selizwe senhlanganiso ye-UNODC.¹

Ibanga lokuhlola

Imibhalo lezihloko ze-UNCAC ezikhangelwe kabanzi zasetshenziswa kulombiko esahlukweni sesibili kumbe kuChapter II yilezi ezingenhla:

- Isivumelwano (Article) 5: Izimiselo lokusebenza kokuvinjelwa ukukhohlakala,
- Isivumelwano (Article) 6: Inhlanganiso/ izinhlanganiso zokuvimbela ukukhohlakala,
- Isivumelwano (Article) 7.1: Ukuqatshwa emnyango wemisebenzi kazulu,
- Isivumelwano (Article) 7.3: Usekelo lwezemali kundaba zombusazwe
- Isivumelwano (Article) 7, 8 lo12: Imithetho yokuziphatha, lizenzo eziphazamisa umsebenzi lokubeka obala umnotho,
- Isivumelwano (Article) 8.4 lo13.2: Izindlela zokubika lokuvikela abacebileyo,
- Isivumelwano (Article) 9: Ukuqoqa lokuqondisa ukusebenzisa imali kazulu,
- Isivumelwano (Article) 9.1: Ukuqoqa impahla kazulu,
- Isivumelwano (Article) 10 lo13.1: Ukufinyelela ulwazi lokusebenzelana lomphakathi
- Isivumelwano (Article) 11: Ugatsha lwezemithetho lomsebenzi wabatshutshisi
- Isivumelwano (Article) 12: Ukucaca kwenhlanganiso lamabhizimusi azimele wodwa kanye le
- Isivumelwano (Article) 14: Izindlela zokwenqabela ukutshaphaza imali.

Umbiko loubuya ugoqele imibhalo lezinhloko ezimunyethwe yisahluko esinguChapter V eseUNCAC, kuhlangukela:

- Izivumelwano (Articles) 52 lo58: Ukuvimbela ukutshaphaza imali,
- Izivumelwano (Articles) 53 lo56: Izindlela zokubuyiselwa impahla mathupha,
- Isivumelwano (Article) 54: Indlela zokuthumba impahla,
- Izivumelwano (Articles) 51, 54, 55, 56 lo59: Ukusebenzelana kwamazwe ukuze izimpahla zenkohlakalo zithunjwe okusemthethweni; kanye le,
- Sivumelwano (Article) 57: Ukuphendukiswa lokwabiwa kwezimpahla zenkohlakalo ezathunjwayo.

Isimo sombiko

¹ Implementation Review Group (2020), 'State of implementation of the United Nations Convention against Corruption', available at <https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/8-10June2020/V2002129e.pdf> [accessed on 20 December 2020].

Umbikouqala ngeqoqonzulu, ugoqela imininingwane efunyenweyo ifinqiwe, izinqumo leziqondiso eziphume ekuhlolisiseni, ukutholakala kolwazi kanye lokufeza lokuphoqelela imibhalo ekhethiweyo eye-UNCAC. Isigaba esilandelayo sicacisa ulwazi olutholakeleyo ekuhloleni iZimbabwe kanye lezinkinga ezibe khona ekutholeni ulwazi sezisethulwa okudephileyo.

Besekubuya ke ukubukezwa kokusebenzisa inhlangano, besekusethulwa izibonelo ezifaneleyo ezinhle ezokusebenza kanye lalezo ezimbi lokusilela okukhona. Kulandela ingxoxo yentuthuko esibe khona kuphethe ekucineni kuleziqondiso ezihlela ngokuqakatheka lokulandelana kwemisebenzi okufanele ifezwe ukuze kube lula ukuthuthukisa izifiso zesivumelwano sokulwisa inkohlakalo lobugelekeqe eseUNCAC.

Amacebo

Umbikowahlelwa yinhlangano ye-Anti-Corruption Trust yeSouthern Africa (iACT-SA) iphathiswa ihlonyulelwa yi-UNCAC Coalition. I-ACT-SA yenza amalungiselelo wokudinga ulwazi lokubumba umbiko luvela ezinhlanganisweni zezakhamuzi zemiphakathi (amaCSO ngesifinyezo), umnyango wamankampani azimeleyo, imiphakathi lezinhlangothi zikahulumende, kugogela inhlangano yeZimbabwe Anti-Corruption Commission (iZACC), iNational Prosecuting Authority (iNPA), iFinancial Intelligence Unit (iFIU), iOffice of the President and Cabinet (iOPC), iMinistry of Justice, Legal and Parliamentary Affairs kanye neMinistry of Home Affairs, ndawonye leZimbabwe Revenue Authority (iZimra) ukuze ingxoxo le izike. Umbikowokuqala wathunyelwa izihlangano ukuze ziyibale besezisethula imininingwane engangezelelwa ukugcwalisa izikhenxe. Kodwa ke imizamo yonke yokuthola ulwazi olutsha luvela kuhulumende yehlula. Kwabuya kwavalelwa ilizwe lonke ngenxa yezeluleko zesingci seCOVID-19 kwaba nzima ukubonana ngamehlo labantu abathile.

Umbikowalotshwa kulandelwa iziqondiso lesakhiwo sombiko esaphiwa sesidalwe yi-UNCAC Coalition leTransparency International esasilungiselwe inhlangano ezizimele zodwa zomphakathi amaCSO. Isakhiwo sombiko silemibuzo emayelana lokuzihlolisisa bese kusithi esigabeni sokufeza kube lemibuzo yokusebenza ngobuqotho kanye lezinye izigaba eziswela ukuthuthukiswa emibhalweni ye-UNCAC izahluko (Chapters) II loV. Ekulotshweni kwalombiko abalobi bawo bakhangela ukuhlolisisa kweUNCAC okusanda kwenzakala elizweni leZimbabwe kodwa basebesebenzisa kuphela iqoqonzulu elitholakala ebulenjini be-UNODC ngoba phela imininingwane yombiko owavela kuhulumende ungavezelwanga uzulu ukuba ayibale.²

² Ibid.

II. Iqoqonzulu

Ilizwe leZimbabwe selilengqubo enhle eyokubumba indlela ezifaneleyo ezibonakalayo zokufeza okusemthethweni ngokusetshenziswa kweziqondiso zemibhalo kaChapter II (Indlela zokuvimbela inkohlakalo) kanye loChapter V (Ukubuyiselwa komnotho) eye-United Nations Convention against Corruption (iUNCAC) eyabunjwa yasayinwa mhlaka20 Nhlolana 2004 yasivunyelwana mhlaka8 Mbimbitho 2007.

Kodwa ke kusuka kusweleke ezweni intando yabakhokheli bezwe yokusebenza kanye lezindleko labantu kuphethe kubuyisele emuva imizamo ephelileyo enganceda ukuvimbela inkohlakalo lobugelekeqe kanye lokubuyiselwa okumqoka okupheleleyo kwempahla zonke ezebiwayo. Impumela ekhona yemizamo yokuvimbela inkohlakalo ikude kakhulu lempumelelo, ukwanela lokuhlolisisa ingqe ngubani elizweni. Ukuthikaza lokuqinisa kwalolu ukholo kusekelwa ngamacala ahlala esanda awenkohlakalo esiba labangengaki abagwetshwayo. Inhlango yeNational Prosecuting Authority (iNPA) ihlala ibekwa icala lokugweba okungelamsoco okuthambileyo okukhutshwa yikungenela kwabezombusazwe emisebenzini yayo okunqunda yonke imizamo besekusithi abantu ababekwe amacala baphethe bekhululwa kumbe ukuthethwa kwamacala abo kuphetha kuthatha isikhathi eside kakhulu..

Iqiniso lisobala ukuba uhulumende welizwe leZimbabwe kakatshengiseli ukukhuthalela lokukhuthalela lothando lokuzinikela okusenhliziyweni ukuphoqeleta ngemithetho yokuvimbela inkohlakalo lokugweba abakhohlisi. Ukuthi uhulumende uswela ukuzimisela kubonakala kalula kulabo abakhokheli abaphezulu abahlala besolelwa bexabhelelwa enkohlakelweni lemahlazweni ayo. Yisimo esixakayo lesi ngoba abaphathi abanengi abayisiso sibonelo esihle sokwenqaba lokubalekela inkohliso lobugelekeqe. Kusobala ukuba ilizweleZimbabwe likhuluma nje kodwa lingenzi lutho ngokukhohlakala. Izindlela zokwenqabela ukukhohlakala lobugelekeqe zibulawa ngumkhuba ovikela labo abalecele kwezombusazwe kumbe abakhokheli bakahulumende wokwengamela emakhwapheni elivuna kabanzi abantu abanecele nezombusazwe (amaPEP) abasuka ezikhathini ezinengi batshelile, bengachwayisiswa, bengabotshwa ngakho akuvamanga ukuthi lababantu bengajeziwa.

Eyinye ingxenye yengqubo encomekayo igqela ukubunjwa kwemithetho elandelayo eyokuvimbela inkohlakalo lokubuyiselwa kwomnotho:

- iConstitution of Zimbabwe Amendment (No. 20) Act, 2013,³
- iPublic Procurement and Disposal of Public Assets Act,⁴
- iMoney Laundering and Proceeds of Crime Act, isiguquliwe,⁵
- iPublic Entities Corporate Governance Act [Chapter 10:31];⁶
- i-Anti-Corruption Commission Act [Chapter 9:22],⁷
- iPublic Finance Management Act[Chapter 22:19],⁸
- i-Audit Office Act [Chapter 22:18],⁹
- iPublic Service Act[Chapter 16:04],¹⁰
- iCivil Matters (Mutual Assistance) Act;¹¹ kanye

³ Bona, <https://zimlil.org/zw/legislation/act/2013/amendment-no-20-constitution-zimbabwe>.

⁴ Bona, <https://zimlil.org/zw/legislation/act/2017/5>.

⁵ Bona, <https://zimlil.org/zw/legislation/act/2013/4>.

⁶ Bona, http://www.veritaszim.net/sites/veritas_d/files/PUBLIC%20ENTITIES%20CORPORATE%20GOVERNANCE%20ACT_0.pdf.

⁷ Bona, <http://www.veritaszim.net/node/105>.

⁸ Bona, <https://zimlil.org/zw/legislation/consolidated-act/chapter-2219>.

⁹ Bona, <http://www.veritaszim.net/node/160>.

¹⁰ Bona, <https://zimlil.org/zw/legislation/act/1995/21>.

¹¹ Bona, <https://www.jsc.org.zw/jscbackend/upload/Acts/2001/0802updated.pdf>.

- Criminal Matters (Mutual Assistance) Act [Chapter 9:06].¹²

Amalungiselelo amqoka asemisiwe awokuvimbela inkohlakalo kwomnotho owakade utshontshiwe agoqela la alandelayo:

- iZimbabwe Anti-Corruption Commission,
- i-Office of the President leCabinet,
- iPublic Service Commission,
- i-Office of the Auditor General,
- iCorporate Governance Unit in the Office of the President leCabinet,
- iProcurement Regulatory Authority of Zimbabwe,¹³
- iFinancial Intelligence Unit,¹⁴
- iNational Prosecuting Authority,¹⁵
- iZimbabwe Republic Police,¹⁶ kanye le
- iZimbabwe Revenue Authority.¹⁷

Kodwa ke loba ikhona imithetho le, imigomo lezinhlanganiso ezabunjwayo, izikhexe ziqhubeka zikhona ngoba nanku amacala okukhohlakala aya esanda kugaqela ukukhohlakala kwezikhokho zezikhulu abayilabo abanobudlelwano nabezombusazwe amaPEP. La amacala alandelayo yila asanda kwenzakala abikwe phakathi kuka2018 lo2020:

- ↔ NgoNtulikazi 2019, uPrisca Mupfumira, uMinister wePublic Service, Labour leSocial Services, wabotshwa ngecala le-US\$94 million eyanyamalalayo ezimalini zamampentsheni. Ube ngowakuqala bamaminisita abeZimbabwe African National Union-Patriotic Front (iZANU-PF) ababotshwe ngumongameli uPresident Emmerson Mnangagwa labaphathibuso bakhe. UMupfumira wahlala izinyanga ezimbili evalelwe erimandi ejele engakakhululwa ngebheyili ngoMpandula 2019. Intathelizindaba zikubeke obala ukuba ngezinyanga esejele erimandi ube ekholisa imhlolo ethola intofontofo ebe ingaphiwa abanye abe evalelwe labo.¹⁸ Ngesikhathi umbikoulotshwa udaba lwakhe belulokhu lusalindele ukuthethwa emthethwandaba.¹⁹
- ↔ NgoNhlangula 2020, uMinister weHealth uObadiah Moyo osetshiye lowo msebenzi, wabotshwa welekwa icala lokuhlambalaza lokonakalisa njengesigebengu iwofisi yakhengokupha ngengomela ikhontiraki ye-US\$60 million yokuletha impahla zeCOVID-19. Ingomela yathi yona uminisita wezempilakahle wapha ikhontraki yezigidigidi zamadola yokuletha impahla zeCOVID-19 zemithi esekhweze ngabomo intengo engatholanga imvumo evela kunhlanganiso eqondisa imisebenzi lokuphiwa kwemikhandlo yokuthengiselana eyeProcurement Regulatory Authority of Zimbabwe (iPRAZ).²⁰

Akhona amanye amacala lapho abalecele kwezombusazwe kumbe abakhokheli bakahulumende (amaPEP) acatshangelwa khona enkohlakalweni evezwa kasobala. Ezikhathini ezinengi amanye awo amaPEP awabotshwa loba kunjani, uma eke abotshwa, uphenyo lwakhona lokuthonisiswa lokugwetshwa kuthatha isikhathi eside ukuze kuphethwe. Ikanti amalunga amabandla

¹² Bona, <https://www.jsc.org.zw/jscbackend/upload/Acts/2014/0906updated.pdf>.

¹³ Bona, <http://www.praz.gov.zw/index.php?lang=en>.

¹⁴ Bona, <https://www.fiu.co.zw/>.

¹⁵ Bona, <https://zimlil.org.zw/legislation/act/2014/4>.

¹⁶ Bona, <http://www.zrp.gov.zw/>.

¹⁷ Bona, <https://www.zimra.co.zw/>.

¹⁸ Ndoro, T. (2019), 'PriscaMupfumira sitting pretty & receiving special treatment at Chikurubi? – ZACC denied entry to investigate' available at <https://iharare.com/zacc-denied-entry-to-investigate-mupfumira-prison/> [accessed on 3 February 2021].

¹⁹ Madzianike, N. (2020), 'Updated: Mupfumira case to continue 'at all costs'' available at <https://www.herald.co.zw/just-in-mupfumira-trial-fails-to-kick-off/> [accessed on 20 December 2020].

²⁰ BBC (2020), 'Coronavirus: Zimbabwe health minister in court on corruption charges' available at <https://www.bbc.com/news/world-africa-53119989> [accessed on 20 December 2020].

ezakhamuzi angamaqembu azimele lezintatheli ezibika ngenkohlakalo ziyahlukunyezwa zimangalelwe, zibotshwe kumbe zijeziswe ukwedlula lapho. Icala likaHopewell Chin'ono liyisibonelo esisegcekeni.

Kumgceke ukuba inkohlakalo ibhahile kwabasebenza umthetho ngoba wona amalunga omthetho ayenza yethuse ngamadla inkohliso nanku agodliswa ingwenya ukuze achithize adele ukuphendla okufaneleyo amacala enkohlakalo lobugelekeqe. Sikhona isibonelo sika17 Ntulikazi 2020; iZimbabwe Anti-Corruption Commission (iZACC) yafakaza yaqinisa ukubotshwa lokuma emthethwandaba kwomtshutshisi wesabelo (uProvincial Public Prosecutor) kanye labanye abaphathi bamapholisa abohlandla lwePolice Commercial Crimes Division (iPCD). Lezo zibotshwa zazibekwe amacala obugebengu bokuhlambalaza imisebenzi yazo okungaphandle komthetho. Izingomela zala amacala zazandulelwe yikubotshwa kwakuqala lokuma emthethwandaba kwabaphathi besigodlo seCity of Harare okwakungokokwephula imithetho yokuphatha imisebenzi yabo. Izisebenzi lezi zazibekwe amacala wokwamukela imali zokuvala umlomo wengwenya ekuphenyeni kwazo.

Ukwahluleka ukuqeda inkohlakalo kwembula amanyala abanzi abukisa ukuswelakala kwezingcebo, ukungabikhona kwamandla ezinhlanganiso, ubucayi bobuqotho bezisebenzi zomthetho, isiphazamiso lesigxamalazelo salabo abalobudlelwano labezombusazwe ekuphenyweni lekubekweni kwamacala enkohliso kanye lokwanda kokungesabi ukubekwa amacala, ikakhulu kwabantu abanobudlelwano lezombusazwe amaPEP uma kuyiwo onileyo. Isimo salolu uhlobo sikubeka obala ukuba ukungenela okubanzi kuyafunakala ukuze kukhuphuke ukwanelisa kwezinhlanganiso ezikhona ukuvimbela inkohlakalo lokuguqula eminye imithetho eyehlulekayo ukusebenza.

a) Ukuchaza ingqubo

Umbikowalotshwa uncediswa ngabantu bakahulumende abangebangaki lezinhlango zakhe ezilutshwane ngoba inengi lazo lingasalethanga mpendulo ngesikhathi licelwa ukupha ulwazi lokwengezelela. Izinhlanganiso zikazulu amaCSO zahlanganyela zancedisa. Ulwazi olwengezelelweyo lukhona olubukisa ukucaca lokuphathisa kwamaCSO – kulotshwe kuhle ogwalweni lokuhlolisisa olwe-UNCAC olusemthethweni oluhlele iZimbabwe. Lulotshwe esahlukweni sesithathu sombiko uChapter III.

b) Ukutholakala kolwazi

Ukuthola ulwazi olufuneka kulombiko ikakhulu oluvela ezinhlanganisweni zikahulumende akubanga lula – bekufinqiwe nje kukulutshwane. Umbiko opheleleyo owokuhlola uhulumende ugcinwe nguye waba yimfihlo enkulu kwakhutshwa kuphela iqoqonzulu eliyilo esilithole ebulenjini benhlanganiso eyeUNODC.²¹ Ekulobeni wonalombiko oyibalayo khathesi, iACT-SA icele inhlanganiso yeZimbabwe Anti-Corruption Commission (iZACC) ukuthi iphiwe umbiko ogcweleyo owalotshelwa uhulumende ecacisa amanyathelo asethethwe yiZimbabwe ekugcwalisisweni kwezinqumo ezimunyethwe kuSahluko Sesibili leseSihlanu sesivumelwano sokulwisa ubugelekeqe eseUNCAC, kodwa iZACC ayizange iphendule kwasekuncipha ke ithuba lokuloba phansi imininingwane evela kuhulumende yasisiba milutshwane.

c) Ukubekwa kwezivumelwano emthethweni lokuphoqeletwa kwawo

Indlela lezimiso zeZimbabwe ezisemthethweni zokuvimbela inkohlakalo lokubuyisela umnotho zigoqela iConstitution of Zimbabwe Amendment (No. 20) Act, 2013, iZimbabwe Anti-Corruption Commission Act, iPublic Finance Management Act, iAudit Act, iPublic Service Act, iPublic Procurement leDisposal of Public Assets Act, iMoney Laundering leProceeds of Crime Act,

²¹ Bona, Implementation Review Group (2020), 'State of implementation of the United Nations Convention against Corruption' available at <https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/8-10June2020/V2002129e.pdf> [accessed on 20 December 2020].

isiguquliwe, iPublic Entities Corporate Governance Act kanye leCriminal Matters (iMutual Assistance) Act.

Amandla amqoka asebenza ukwenqabela inkohlakalo lokubuyiselwa komnotho agoqela iZimbabwe Anti-Corruption Commission, ihofisi kaMongameli (Office of the President leCabinet), iPublic Service Commission, i-Office of the Auditor General, iCorporate Governance Unit esebenzela ehofisini kaMongameli, iProcurement Regulatory Authority, iFinancial Intelligence Unit, iNational Prosecuting Authority, iZimbabwe Republic Police kanye leZimbabwe Revenue Authority.

Kodwa ke zisezinengi izikhexe ezibanzikazi ezifakazelwa ngamacala angapheliyo enkohlakalo akhona elizweni agoqela ukukhohlakala kwezikhokho lalabo abalecele kwezombusazwe kumbe abakhokheli bakahulumende (amaPolitically Exposed Persons). Ukwahluleka ukunqoba inkohlakalo kubeka mgceke ukuswelakala kabanzi kwezingcebo, ukuswelakala kwamandla ezinhlanganiso, ukugxamalazela kwezombangazwe ekuphenyweni kwamacala lekugwetshweni kwabonileyo, kanye lokungesabi ukubotshwa okuya kukhula ezweni ikakhulu phakathi kwamaPEP nxa esolelwa inkohlakalo. Kulula nxa sihlolisisa lo umumo ukuba ukungenela kwenhlobonhlobo kufanele ukuze ilizwe lithuthukise amandla ezinhlanganisweni ezikhona awokwenqabela inkohlakalo lawokuguqula imithetho engaselawo amandla okusebenza.

TABLE 1: Ukusebenza lokuphoqelesa – isiqoqo - uChapter II

Izivumelwano ezikuUNCAC	Isimo samanyathelo asethethwe ekumiseni imithetho	Isimo seqiniso sokusebenza
Art. 5 – Izimiselo lezindlela zokuvimbela ukukhohlakala	Zigcwaliseke ngokukhetha okuthile	Kasisikhulu kangako
Art. 6 – Izinhlangano zokuvimbela ukukhohlakala	Zisebenze ngokukhetha	kasisikhulu kangako
Art. 7.1 – Ukuqatsha kuhlandla lwezomphakathi	Kugcwaliseke kabanzi	kasisikhulu kangako
Art. 7.3 – Usekelo lwezemali kundaba zombusazwe	Kugcwaliseke kabanzi	kasisikhulu kangako
Art. 7, 8 lo12 – Imithetho yokuziphatha, Izenzo eziphazamisa umsebenzi lokubeka obala izimpahla ezikhona	Kugcwaliswe ngokukhetha	kasisikhulu kangako
Art. 8.4 lo13.2 – Izindlela zokubika lokuvikela abacebileyo	Kugcwaliswe ngokukhetha	sibi ²²
Art. 9.1 – Ukuthenga imphahla kazulu	Kufeziwe kakhulu	kasisikhulu kangako
Art. 9.2 – Ukuphatha izimali zikazulu	Kugcwaliswe ngokukhetha	kasisikhulu kangako
Art. 10 and 13.1 – Ukufinyelela ulwazi lokusebenzelana lomphakathi	Kufeziwe kakhulu	sibi
Art. 11 – Uqatsha lwezemithetho lomsebenzi wabatshutshisi	Kufeziwe kakhulu	kasisikhulu kangako
Art. 12 – Ukucaca lokwethembeka kwenhlanganiso lamabhizimusi angasiwokahulumende	Kugcwaliswe ngokukhetha	sibi

²² Inhlanganiso yeZACC ihlele kungekudala ebulenjini indlela yokucebela ukuze iphathise ekulobeni amacala okukhohlakala. Kodwa ukusebenza kakuhle kwayo kukhutshwa yikuswelakala kokwethembana kwezinhlangano lemithetho yokuvikela abacebelayo.

Art. 14 – Izindlela zokuvimbela ukuhlambalaza izimali	Kufeziwe kakhulu	kasisikhulu kangako
---	------------------	---------------------

TABLE 2: Ukusebenza lokuphoqelela – isiqoqo – Isahluko Sesihlanu (uChapter V)

Izivumelwano ezikuUNCAC	Isimo samanyathelo asethethwe ekumiseni imithetho	Isimo seqiniso sokusebenza
Art. 52 and 58 – Ukuvimbela ukuhlambalaza izimali	Kufeziwe kakhulu	Kasisikhulu kangako
Art. 53 and 56 – Indlela zokuthumba imphahla	Kufezwe okupheleleyo	Kasisikhulu kangako
Art. 54 – Amanyathelo wokuthumba ngawo imphahla	Kufezwe ngokukhetha	Kasisikhulu kangako
Art. 51, 54, 55, 56 lo59 – Ukusebenzelana kwamazwe ukuze izimpahla zenkohlakalo zithunjwe	Kufezwe okupheleleyo	Kasisikhulu kangako
Art. 57 – Ukuphendukiswa lokwabiwa kwezimpahla zenkohlakalo	Kufezwe ngokukhetha	Sibi

TABLE 3: Ukusebenza kwezinhlanganiso ezimqoka ezikhethiweyo – Isahluko Sesibili (uChapter II)

Igama lenhlanganiso	Ukusebenza kwayo imilandu yiripoti ebaliswe	Isithasiselo esincinyane ekusebenzeni (e.g. izingcebo, amakhono anokutsho, ukuzimela)
iZimbabwe Anti-Corruption Commission	kulingene nje	Ilamakhono ilengcebo ephansi
i-Office of the President leCabinet	kulingene nje	Ilamakhono ilengcebo ephansi
iPublic Service Commission	kulingene nje	Ilamakhono ilengcebo ephansi
iThe Office of the Auditor General	kulingene nje	Ilamakhono ilengcebo ephansi
iCorporate Governance Unit kuhofisi kaMongameli leCabinet	kulingene nje	Ilamakhono ilengcebo ephansi
iProcurement Regulatory Authority	kulingene nje	Ilamakhono ilengcebo ephansi

TABLE 4: Ukusebenza kwenhlanganiso ezimqoka ezikhethiweyo- ISahluko Sesihlanu (Chapter V)

Igama lenhlanganiso	Ukusebenza kwayo imilandu yiripoti ebaliswe	Isithasiselo esincinyane ekusebenzeni (e.g. izingcebo, amakhono anokutsho, ukuzimela)
iFinancial Intelligence Unit	kulingene nje	Ilamakhono ilengcebo ephansi
iZimbabwe Anti-Corruption Commission	kulingene nje	Ilamakhono ilengcebo ephansi
iNational Prosecuting Authority	kulingene nje	Ilamakhono ilengcebo ephansi

iZimbabwe Republic Police	kulingene nje	llamakhono ephansi	ilengcebo
iZimbabwe Revenue Authority	kulingene nje	llamakhono ephansi	ilengcebo

Izinhlanganiso zikhona ziyasebenza, kodwa lezo ezilomlandu wokwenqabela inkohliso lezithungatha umnotho nezimpahla ezitshontshiweyo kazilawo amandla okufeza imilandu yazo ngendlela ephелеleyo, efaneleyo, elekhono, njalo ziswela indleko ezokuphutshisa umsebenzi. Isibonelo ngesenhlanganiso yeZACC; ikhona kodwa ayibonakali kuzulu, kayazakali kuzo zonke izabelo zelizwe ngoba ingelamali lezimota zokufika yonke indawo elizweni.

Njengoba kunjalo, ingcebo yiyo enqabela izisebenzi kakhulukazi ekufezeni imilandu yazo. Isibonelo sitholakala mgceke esisebenzini esesatshiyayo eseZimbabwe Revenue Authority (iZIMRA) uCommissioner-General Gershem Pasi; umantshi weHarare wavumelana lesicelo sakhe ngoba ugatsha lwabatshutshisi i-NPA yala ukumupha ilanga lokuthethwa kwecala kwabonakala ukuba ukuphanda icala kwakungaqediswanga. Iqembu labaphenyi okwakumele liyefika eChina ukuqhubeka ngophenyo aliyanga khona, alikahambi sekuze kwadlula izinyanga ezingamatshumi amabili lambili u Gershem Pasi ebotsiwe.²³

d) Iziqondiso ezimqoka ezokusebenza okuqakathekileyo

Lezi ezilandelayo yiziqondiso ezimqoka ezezindawo eziqakathekileyo okumele zilandelwe ukuze kufezwe okupheleleyo isiloyiso sesivumelwano seUNCAC elizweni leZimbabwe. Ezinye iziqondiso zoqobo ezezahluke sesibili lesesihlanu - oChapters II loV - ze-UNCAC zilotshwe phansi kusahluko sesithupha (Chapter VI) walo mbiko.

Kuyaqondiswa ukuba ilizwe leZimbabwe lifeze okulandelayo:

1. Lenze kube ngcono ukusebenzelana lokukhulumisana lenhlanganiso zomphakathi ezizimele zodwa ezeCSO, amaphephandaba azimeleyo kanye lomnyango wezinhlanganiso ezizimeleyo ezingezizikahulumende ezibethwe ekuhloleni kwe-UNCAC okuhlala kusenziwa lokulwa lenkohlakalo okuqhubekayo ngokuqinisa ukuba amanye amaCSO, lezinhlanganiso zentatheli ezizimeleyo zihlala zibuziwe ngezikhathi zokuhlolwa kwelizwe;
2. Limise umthetho omutsha oqondene lokufinyelela ulwazi kulandelwa indlela ezincomekayo ezomhlaba wonke kugoqela ukubunjwa kwebandla elizimeleyo elingafana lenhlanganiso ye-Information Commission ekhangela ihole ukusetshenziswa kwalowo umthetho;
3. Lingezelele izimali labantu abalamakhono abanganelisa ukubindana lenkohliso ezinhlanganisweni ezifana leZimbabwe Anti-Corruption Commission (iZACC) kanye leFinancial Intelligence Unit (iFIU) ukuze zifeze imilandu yazo ngendlela ephumelelayo okupheleleyo, elekhono, ephumelelayo okuphezulu, njalo ezimeleyo.
4. Lisebenzele ukubhidliza wonke amacala okungesabi umthetho aqhubeka ebukisa ekloloda ngenkohlakalo ikakhulu amacala alabobantu abanobudlelwano lezombusazwe (amaPEP) phakathi kwawo.

²³ Madzianike, N. (2020), 'Just in: Court declares Pasi free man', available at <https://www.herald.co.zw/just-in-ex-zimra-commissioner-general-pasi-granted-application-for-refusal-of-further-remand/> [accessed on 27 November 2020].

III. Ukuhlola izindlela ilizwe leZimbabwe elihlolwe ngazo

Umbikowelizwe leZimbabwe owenziwe nguhulumende ezihlola yena mathupha waqoqwa waphela uloncedo oluncinyane oluvela kwezingangaki inhlanganiso zikazulu ikanti zona zizinengi. Isibonelo yi-ACT-SA enganxuswanga yasibona isaziswa ngewekishophu yokubuzwa ngeyinye inhlanganiso eyayibuziwe yona ivele ingasebenzi ngenkohlakalo. Incwadi yokucela amabandla alezinhlanganiso ukuba zibuye zibuzwe ivela kwabeNational Economic Consultative Forum (iNECF) ekamhlaka9 Nkwenkwezi 2019 iqinisa kasobala ukuba amaCSO kanye lamabandla aphiwa ihola elilodwa kuphela ukuba alungiselele agijimele kulowo mhlango; kusukela ngo13:45 kuya kub14:45 wamahola ngeWednesday, ka15 Nkwenkwezi2019, ukuze bethule olwabo ulwazi. Kusobala ukuba inhlanganiso zamaCSO azikhethwanga kuhle, ikanti isikhathi ezazisiphiwe sasincinyane kakhulu.

a) Umbikowendlela yokuhlola

UTable 5 ongenhla upha imininingwane yokucaca lokuvakatshela izabelo lokuhlanganela kwenhlanganiso zikazulu wonke kungqubo yeUNCAC ekuhloleni ilizwe leZimbabwe.

TABLE 5: Ukucaca kukahulumende lokwezinhlanganiso ezizimeleyo ezeCSO ekuhlanganeleni kungqubo yeUNCAC eyokuhlola

Uhulumende wanikeza yini ulwazi ngommeli obona ngengqubo yokuhlolwa kwelizwe	Yebo	I ACT-SA yathi ibuza iZACC yathola lolu dlebe.
Ukuhlola kwacindezelwa kwenye indawo/ uhlelo lwalusazakala yini?	Yebo	Kwatshelwa inhlanganiso ezilutshwana. Isibonelo; i-ACT-SA yazi isitshelwa yinhlanganiso yeNANGO, inhlanganiso egoqela wonke amaNGO – yaluthola ulwazi kwabeNational Economic Consultative Forum eyayihlanganisa ukuhlola konke ndawonye leZACC.
Izakhamuzi zabuzwa na ekuqoqeni imininingwane yokuzihlola?	Yebo	AmaCSO alandelayo abuzwa: ↔ iNANGO ↔ iTI-Z Amanye amaCSO enqabela inkohlakalo awabuzwanga kodwa kufanele anxuswe.
Uhlelo lokuhlola lwasakazwa na ebulenjini kumbe laphiwa izakhamuzi?	Alipapashwanga ebulenjini, kodwa amaCSO aliphiwa	Laphiwa iNANGO yiNational Economic Consultative Forum kodwa amaCSO enqabela inkohlakalo awaphiwanga mathupha.
Uhulumende wavumela amanye amazwe ukuze azehlola yini?	Yebo	Ukuza komlandu wokuhlola kwe-UNCAC eZimbabwe kwenziwa yiCarpe Verde leRepublic of Angola ngo13-16 Nkwenkwezi 2019.
Abuya na amanye amazwe?	Yebo	Kuyafana langaphezulu.

Izakhamuzi zabizwa na ukuzokupha kwababehlola?	Yebo	Kwanxuswa ezilandelayo: ↔ iNANGO ↔ iTI-Z
Izihlanganiso ezizimeleyo zabizwa na ukuzokwethula ezalo ulwazi kwababehlola?	yebo	Zaluletha ngeNational Economic Consultative Forum.
Uhulumende usethembisile na ukukhipha umbiko ophелеleyo wokuhlolwa kwelizwe?	Akwaziwa	Kawukhitshwanga umbiko ogcweleyo ngaphandle kweqoqonzulu.

b) Ukufinyelela ulwazi

Ukufinyelela ulwazi lilungelo lezizalwane elisesisekelweni selizwe esisesigabeni samatshumi ayisithupha lambili uSection 62 yesisekelo somthetho weZimbabwe (Constitution). Kungakho akukhathalekile ukuba yisiphi isizalwane sona kugqela labemazweni abavunyelwe ukuhlala impiloyabo yonke elizweni, izazi zemithetho, kanye lentatheli zilelungelo lokufinyelela lonke ulwazi oluphethwe lilizwe kumbe ingqo yiphi eyinye inhlanganiso kumbe ingqo yiwuphi umnyango kahulumende ongabe ukuliphi izinga. Kodwa kukhona olunye uhlobo lolwazi olungaphiwa uzulu – imfihlo – engeke ikhitshwe ngobulembu kumbe ngeminye imiganga. Ulwazi lwemithetho engafezeka kalula iloncedo emiphakathini itholakala kalula ikhutshelwe uzulu ebulenjini benkundla yeDale le Phalamende (Parliament of Zimbabwe)²⁴ lubuye luphutshe ngezihlanganiso zezakhamuzi ezifana leZimbabwe Legal Information Institute²⁵ kanye leVeritas²⁶. Lesi isimo sithi ulwazi lomthetho, olwemigomo lokuhlelwa kwezihlanganiso belutholakala kalula kwenza ukuba abalobi balo mbiko balufinyelele kalula lolwazi.

Loba kunjalo umbiko wokuhlola iZimbabwe ekufezeni izahluko ezinguChapter II kanye loV we-UNCAC kayizange uphiwe abantu. Imizamo yenziwe ukuxhumana leZACC kodwa lewombiko awuzange uphume siwuphiwe.

Ukuze bathole ulwazi olufaneleyo abalobi beyama kweminye imithombo yolwazi efana lezihlanganiso zamaCSO kanye lezintatheli labanye nje abangebangaki. Ulwazi olwalukhona yisiqoqonzulu sikahulumende kanye loluhlu lukahulumende lwezinjikalwazi kodwa amagama abantu bonke okufanele babuzwe ayengaphelelanga. Ezinye izikhwica ezihlelwe ebulenjini be-UNODC sezabhubha ezifana lomuyi obengumgcinisihlalo we-Anti-Corruption Commission.

Ulwazi ngamacala alutholakalanga lula ngoba kuyazakala ukuba akusimkhuba kahulumende ukupapasha imbikoyamacala kumbe awezinye izindaba eziyimfihlo ezimayelana lombiko. Uhulumende kazange avume ukukhipha ulwazilwalolu uhlobo.

Ulwazi ngamacala lwande ukukhitshwa nxa imithethwandaba isiwaphethile yethula izigwebo. Uma sekwenzakele lokhu izigwebo kumbe izinqumo zipapashwa ebulenjini beJudicial Service Commission (iJSC)²⁷, kanye leZimbabwe Legal Information Institute (iZIMLII).²⁸

²⁴ Bona, <https://www.parlzim.gov.zw/acts>.

²⁵ Bona, <https://zimlil.org/zw/legislation/numbered-act>.

²⁶ Bona, <https://www.veritaszim.net/acts>.

²⁷ Bona, <https://www.jsc.org.zw/judge>.

²⁸ Bona, <https://zimlil.org/content/judgments>.

IV. Isinqumo sokusebenzisa imigomo yaboChapter II lo V

Umbiko louchasisa izinga eselithethwe yilizwe leZimbabwe ukusebenzisa amaChapter II loV we-United Nations Convention against Corruption (iUNCAC) ayisayina ayivuna ngo20 Nhlolana 2004lo8 Mbimbitho 2007,ngokulandelana.Ukufeza leyo ngcazelo kwenze ukuba izigaba ezilandelayo zethule isichasiso semithetho efaneleyo, imigomo, izindlela, lenjwayelo yokusebenza esikhona, kanye lezinhlanganiso eziphathelane lokuhlola, ukwalusa, ukuphoqelesa lokujezisa abangasebenzi kuhle ezindaweni ezifaneleyo.

1. ISahluko (Chapter) II –Izindlela zokuvimbela inkohlakalo lobugelekeqe

ISahluko Sesibili (UChapter II) se-UNCAC ugoqela izivumelwano ama-Articles asuka kwamahlanu esiya kweletshumi lane, aqondisa ngezindlela leziqondiso zokwenqabela lokulwisana lobugelekeqe lenkohliso, ukukhuphula ubuqotho igunya lokuphatha ngemfanelo izindaba zikazulu lempahla zomphakathi. Le iChapter iqhamise izindlela zokwenqabela inkohlakalo, imigomo lemikhuba ibeke obala izenqabelo ezimqoka lezindlela zokuzifeza. Izinhlanganiso zombuso welizwe kumele zingenise, zilondoloze, zibuye ziziqondise izindlela ezizwayo zokwenqabela inkohliso kanye lemigomo efaneleyo, zinciphisa lamahlabezulu. Isahluko lesisibuya siqokise ukuqakatheka kwemigomo yokwenqabela inkohlakalo lobugelekeqe, indingeko yokukhubeka njalo nje ngokuhlola izindlela ezikhona zokwenqabela inkohlakalo lokusebenzelana lomhlaba wonke jikelele. Ngoba izindlela zokwenqabela, imigomo, iziqondiso lezinhlanganiso zisebenza okuzwayo nxa zibika mgceke zinciphisa lezinhlanganiso zikazulu, i-UNCAC isuka iphe ukuqondisakokuhlola zonke izindlela zokusebenza lokusebenzelana lokuzwanana. Sibuya lesi sahluko esiyi Sahluko Sesibili sethule amasu lezinhlalo okumele zisebenze ukuze umumo wokukhanya ufezeke emnyango kazulu kulezindlela zokwenqabela inkohlakalo ekukhokheleni, emithethweni, ekubuseni, ekugwebeni, njalo njalo. Isahluko siphetha ngamalungiselelo amayelana lokwenqabela ukuhlambaza imali.

1.1Isivumelwano Sesihlanu (Article 5) –Imigomo lemikhuba yokwenqabela inkohlakalo

1.1.1 Ukuhumutsha Isivumelwano

KuSivumelwano Sesihlanu (Article 5) se-UNCAC, inhlanganiso zikahulumende ziyakhuthazwa ukuveza lokusebenzisa kumbe ziqinise imigomo yokwenqabela inkohlakalo elamandla ehambelanayo ekhuphula ukuhlanganelana lozulu ibukisa ukusetshenziswa kwemithetho, ukuphatha okufaneleyo kwezindaba zikazulu lempahla zakhe, ubuqotho, ukucaca, legunya. Izinhlanganiso zikahulumende kumele zibuye zikhuphule imikhuba esebenzayo eqondene lokwenqabela inkohlakalo lobugelekeqe.

1.1.2 Ukulandela izimiso zeSivumelwano

IZimbabwe isibumbe imigomo eminengi lemisebenzi embalwa yokwenqabela ukukhohlakala. Eminye yalemigomo itholakala emithethweni esikhona lezisekelweni zeConstitution of Zimbabwe kanye lenhlanganiso elwisa ubugelekeqe eyeZimbabwe Anti-Corruption Commission Act [Chapter 9:22].

Yabuya futhi yangezelela iZimbabwe ngokukhuphula uhlelo lweTransitional Stabilisation Programme 2018–2020 eselikubeke obala ukuba inkohlakalo ngeyinye yezinkinga eziphahle ilizwe okumele ibhekisiswe ngelikathekwane. Ubuhle bakhona yikuthi loluhlelo ludinga ukukhuphula amandla lesaneliso samabandla lezinhlanganiso ezivimba inkohlakalo, ukuvula imithethwandaba yokuvimbela inkohlakalo lokukhuphula ukwenqabela ukuhlanjalazwa kwemali.

Ezinye inhlanganiso ezinjengeZimbabwe Anti-Corruption Commission kanye lehofisi yabahlola ukuthi imali isetshenziswe ngindlela (Office ka-Auditor General) zihlala zisungula zifeza indlela zokuhlola lokucwaninga okuvumbulula inkohlakalo lokunye ukuganga kwenhlobo

okukhona. Kodwa ke abaqapheli sebeyethule ukungahlaliseki ukuthi iziqondiso ezivela ku-Auditor General zande ukweyiswa lokunganakwa nje kube sekusithi ubuqotho bokuhlola ingcebo kazulu bungabe busaqakathekiswa.²⁹ Izincwaningo zihunyutshwa nje njengemicabango yezikhwica lezikhokho efanele ukudelwa nje ngoba ingelancedo ekuguquleni imigomo emiphumelweni evela kuleyo micwaningo. Loba nje u-Auditor General okhona khathesi efeze umsebenzi omuhle kakhulu kudala bekulokulibala ekukhipheni izingwalo ezipheleleyo zokucwaninga. Isigaba uSection 10 we-Audit Office Act [Chapter 22:18] sifuna ukuba u-Auditor General ahlolisise imali zikazulu abe esebhala iripoti azayipha uMinister weFinance kungakedluli u30 Nhlangua womnyaka ngomnyaka. I2019 Audit Report khathesi ngoMbimbitho 2021 ilokhu ingakakhitshwa. Ukwehluleka ukukhipha umbiko ngesikhathi esifaneleyo kululaza izimiso zokuphatha imali zikazulu kukhube ukuphumelela kokuhlola ikanti bekuyisikhali esiqakathekileyo sokunanzelela lokumisa ukuhlanjazwa kwezimali; kuqakathekile ekuboneni inkohlakalo kalula lezinkinga zayo lokulimaza kwayo isizwe ezimalini zaso.

Ngo11 Ntulikazi 2020, ilizwe leZimbabwe lasungula uhlelo lwelizwe oluveza indlela zokulwisana lenkonhlakalo lobugelekeqe (iNational Anti-Corruption Strategy and Action Plan) oluka2020-2024. Kodwa ukukhuphula lolu uhlelo bekungaqoqeli bonke abantu abafunekayo nanku amanye amaCSO amanengi afana le-Anti-Corruption Trust of Southern Africa (iACT-SA) engazange anxuswe abuzwe. Ngoba amaCSO engangenisanga lwazi kutsho ukuba ukusebenza kohlelo lolu kungakhubeka.

Kusaselesidingo sokubumba isimo esipheleleyo sokwenqabela inkohlakalo emnyango wemisebenzi engesikahulumende. Isibonelo yikuba khona kwamaqembu ebhizimusi yamafutha lokuthengwa kwemithi avalela uncintiswano lentengo ezingconywa kanye lokunganiki abanye amathuba, besekuphetha kukhweza intengo yemithi lamafutha aphetha eseqongisa intengo yokudla, impahla lezindleko zokuhamba; abantukazana besebethwala kanzima. Iqiniso lokuthi amankampani agoqela iSakunda kanye leGreenfuel Pvt Limited azikholisela ukubayibobodwa esigabeni samafutha libukisa ukuqakatheka kwesidingo sezimiselo eziqinileyo lemithetho ezwayo emnyango wenhlanganiso ezizimeleyo ukuze lakuzo inkohlakalo yenqatshelwe nanku kulamamonopholi amgceke kweminye iminyango ehlukeneyo.³⁰

1.1.3 Izinsilelo

Loba nje iZimbabwe iziqhenya ngemithetho ezwayo lezinhlalo ezimangalisayo ezilwisa ubugelekeqe nenkohlakalo kulezixhese ezinkulukazi ezibonakalayo ekusebenziseni lekufezeni lezo zimiselo. Imithetho ekhona isetshenziswa ngokubandlulula nanku kulabangathintwayo phakathi kwalabo abanecela kwezombusazwe (amaPolitically Exposed Persons). Isibonelo ngowayenguMinister of Mines and Mining Development, uObert Mpofu; waphiwa isamanisi sokuzokuma emthethwandaba aphenjule imibuzo kwabekhomithi yephalamende efanele lolo daba nanku kwakutholakale ukukhohlakala kwezamamayini ngokunyamalala kwe-US\$15 bhiliyoni, kodwa wala ukuzokuma; kuze kube lamuhla akulalutho oselwenziwe kuye usatshakala nje ekhululekile.³¹ Kusobala ukuba ilizwe leZimbabwe lisavikela abantu abangaphezu komthetho, okuqinisa ukholo lokuthi abanye abasawesabi amacala okukhohlisa³², loba ilizwe leZimbabwe kuliqiniso ukuba lasayina lavuna izimiselo zokwenqabela inkohlakalo eziqoqela eze-UNCAC,

²⁹ Zaba, F. (2019), 'Authorities should take public audit reports seriously', available at <https://www.theindependent.co.zw/2019/07/05/authorities-should-take-public-audit-reports-seriously/> [accessed on 3 February 2021].

³⁰ Mhlanga, B. (2020), 'Zim losing US\$400m to Oiline Cartels', available at <https://www.theindependent.co.zw/2020/02/20/zim-losing-us400m-to-oil-pipeline-cartels/> [accessed on 27 November 2020].

³¹ Newzimbabwe Mail (2018), 'Obertmpofu refuses to answer questions on missing \$15 billion in parly, Says He Will Not Be Presided Over By Temba Mliswa', available at <https://www.thezimbabwemail.com/parliament-parliament/obert-mpofu-refuses-answer-questions-missing-15-billion-parly-says-will-not-presided-temba-mliswa/> [accessed on 24 November 2020].

³² Mangwaya, M. (2020), 'TIZ blasts lambasts impunity of corrupt officials', available at <https://www.newsday.co.zw/2020/10/tiz-lambasts-impunity-of-corrupt-officials/> [accessed on 27 November 2020].

iSADC Protocol against Corruption kanye le-African Union Convention on Preventing and Combating Corruption yona eyenqabela ukungabotshwa kwalabo abalamacala.

1.2 Isivumelwano Sesithupha (Article 6) – Izinhlanganiso zokwenqabela inkohlakalo

1.2.1 *Ukuhumutsha Isivumelwano*

Isivumelwano Sesithupha (Article 6) ipha ukuqondiswa kwezinhlanganiso zelizwe ezisayinele isivumelwano sokubumba inhlangotho yokukhuphula indlela (eyomthetho leyinhlanganiso) eyokusebenzisa izimiselo ezizwayo zokwenqabela lokuqeda inkohlakalo. Amalunga akhangelela ukubunjwa komumo ozakwenza ukuba izinhlanganiso ezimqoka ekulwiseni inkohlakalo ukuthi ziyifeze ngokufaneleyo imisebenzi yazo.

1.2.2 *Ukulandela izimiso zeSivumelwano*

Isahluko Satshumi nantathu (Chapter 13) sesisekelo (Constitution of Zimbabwe) sipha isidingo sokubunjwa kwezinhlanganiso ezizangoba inkohlakalo lobugelekeqe. Lezi yizo izibonelo zezinhlanganiso ezilesithunzi:

↔ iZimbabwe Anti-Corruption Commission (iZACC)

Inhlangotho enkulu yokwenqabela inkohlakalo elizweni leZimbabwe yi-Anti-Corruption Commission (iZACC), ephiwe amalungiselelo ayo kusukela kuzigaba uSection 254 kusiya ku257 ezesisekelo seConstitution of Zimbabwe. Isigaba (Section) 255 uhlela le elandelayo iyiyo imisebenzi yeZACC:

- ukuphendla lokuchaya obala amacala enkohlakalo eminyango kazulu leyezinhlanganiso ezizimeleyo,
- ukunqoba inkohlakalo, ubusela, ukuthatha ngokweba, ukuhlambalaza amandlakanye lokuziphatha kubi okuthile kweziphathamandla zenhlangotho ezikazulu nezenhlangotho ezezimeleyo.
- ukuqhuba uCommissioner-General wePolice ukuphenya amacala abantu abasolelwayo ukuthi bakhohlakele lokubika eCommission ukuphethwa kophenyo lolo,
- ukukhuphula ukuthembeka, ukuziphatha kuhle ezimalini, ukuchacha kanye lokukhanya kuhlandle lukazulu lakunhlangotho ezizimeleyo, kanye
- Lokuhambisa izindaba kwabeNational Prosecuting Authority ukuze batshutshise lokugweba amacala.

iZACC yabunjwa ngo2005 kulandelwa iziqondiso zikaChapter 13, ugatshana lwakuqala (Part 1) lwesisekelo iConstitution of Zimbabwe, kanye leZimbabwe Anti-Corruption Commission Act eka2004. Umthetho owabumba iZACC ukhona futhi esimiselweni sombuso esidala eselizwe leZimbabwe. Wona ube ungaphansi kweSection 108A waleyoConstitution lapho kwabunjwa khona iZACC ngo2004. Kodwa lokhu yabelethwayo lenhlangotho ibe ihlala ihluthwa yizinkinga ezinengi ezigoqela abaphathi abakhohlakeleyo kanye lokuswela amandla ngenxa yezimali ezingeneliyo.

Ekuqaleni iZACC yamukele ukweyiswa nguzulu ngoba ihunyutshwa isenza okungenelanga ukwenqabela inkohlakalo.³³ Isimo sokwahluleka kweZACC sigoqela amahlazo amanengi awezisebenzi zeZACC ngokwazo ezamaCommissioner azo. Kungabe kwadalwa ngokuqatshwa kwezisebenzi ezasezivele zingcolile kumbe indlela embi yokuqatsha epha uMongameli welizwe (UPresident) amandla amanengi okuqatsha amaCommissioner eZACC. Izikhokho ezinecele kwezombusazwe zihlala zibekwe amacala enkohlakalo esemqongweni besekusithi njengoba uMongameli (uPresident) elamandla okuqatsha amaCommissioners, kukhanye ukuba ngabantu

³³ Start up Biz Zimbabwe (2019), 'Corruption in the Spotlight as ZACC resigns', available at <https://startupbiz.co.zw/corruption-in-the-spotlight-as-zacc-resigns/> [accessed on 27 November 2020].

banye abanecele kwezombusazwe (amaPolitically Exposed Persons), athethwe abekwa nguye ezikhundleni zamaCommissioner.

Ihlazo lokuqala elazakalayo elamaCommissioner eZACC lenzakale ngo2008 lapho amakhomishina aphiwa khona izindlu zodulo emasabhabha aphezulu.³⁴ Amahlazo ezimpahla aqhubeka ngo2013 isigungu esitsha esiyiZACC Chief Executive, uNgonidzashe Gumbo, sibotshelwa ukusolelwa ukudla ngamacebo amabi imali yeCommission eyi-US\$435 000. Wamangalelwa ukwenza inzuzo yemfihlo ngomgidi wensolo ngempahla yeZACC. UGumbo wafunyanwa elecala wagwetshelwa iminyaka emibili esejele ngoMbimbitho 2015.³⁵ Ngo2014, kwafunyanwa ukuba umphenyi weZACC wabhadalwa yiZimbabwe Football Association (iZIFA) ngomsebenzi owayewenzela iZACC ephenya izigilamkhuba zeZIFA. Imbiko yamaphephandaba yalinganisa ukuba kwakulokuvumelana okukhulu ngasese okungafanele phakathi kwezinhlanganiso zombili ekubambeni lolo udaba.³⁶

NgoZibandlela 2019, umgcinisihlalo weZACC, umlandeli wakhe (uDeputy Chairperson) lamaCommissioner wonke ayisitshiyangalombili atshiya umsebenzi.³⁷ Batshiya ngemva kokuba uPresident Emmerson Mnangagwa esethe yena uzakwakha kakutsha iZACC,³⁸ kodwa kakwazakali ukuba bakhuthazwa yilokho ukutshiya kwabo bonke. Uma wonke amaCommissioner esedela umsebenzi iZACC isala ingasanyikinyeki ngoba amaCommissioners yiwo aholo ngokusebenza okumqoka kweZACC. IZACC Act kayitsho lutho ngesimo sokuthi wonke amaCommissioner atshiye ngoba kungakhangelelwanga lokho; akulazimiso emthethweni owe-Act olungisa umonakalo walolo hlobo. Loba kunjalo iZACC iqale kancane kancane ukukholwa ngumphakathi ngoNtulikazi 2019 lapho ayisikhombisa amaZACC Commissioner, kugoqela uFungai Jessie Majome, uJohn Makamure, uGabriel Chaibva, uThandiwe Thando Mlobane, uFrank Muchengwa, uMichael Dennis Santi (Rtd Maj) loKuziva Phineas Murapawere, bafungiswa ukuba ngamakhomishina. Yaqala lapho inhlanganiso ukuhlanganela lomphakathi ngenhlelo ezibanzi besebenzisa isikhali seTwitter.³⁹ NgoMpandula 2020, iZACC yaqalisa indlela yokucebela imikhuba yobugelekeqe ebulenjini ukuze kube lula ukuba izizalwane zicebele zivikelekile amacala amakhulu awenkohlakalo elizweni.⁴⁰

IConstitution entsha ibuya iphe iZACC amandla okubhala lokupapasha imbiko ngokungaziphathi kuhle kwaloba noma yisiphi isikhulu sikahulumende kumbe amalunga aweminyango ezimeleyo.⁴¹ Amandla okuqamba lokuyangisa yisikhali esibukhali esingasetshenziswa yiZACC ukuphoqa uhulumende lamankampani lenhlanganiso ezikhohlakeleyo ukuba ziqale ukuguquka. Ingafuqa ukuguquka kwezimiso lemigomo ukuze ibe lesithunzi emiphakathini. Umthetho oweZACC Act kawuyiphi inhlanganiso yeZACC uzibuse opheleleyo mayelana lembiko eyikhiphayo. Kumele ukuba amaCommissioners akhiphe imbiko minyaka yonke ephiwa iphalamende.⁴² Kumele ikwenze isebenzelana lomphathintambo (uMinister) wayo ofaneleyo. Yathi iqala iZACC, uminisita wayo ofaneleyo kwakungumphathintambo weHome Affairs. Kodwa seyasuswa iZACC kuHome Affairs Ministry loba nje ilokhe ingakaphiwa ugatshathile lapho okumele isebenzele khona osekwenze ukuba ingqe nguwuphi umphathintambo angenele nje ezindabeni zeZACC. Amanye

³⁴ Magaisa, A. (2016), 'The last dance before sunset', available at <http://alexmagaia.com/big-saturday-read-last-dance-sunsetzimbabwes-political-elite-looting-state-citizens-can/> [accessed on 27 November 2020].

³⁵ Nemukuyu, D. (2015), 'Anti-Corruption Commission boss jailed', available at <http://www.herald.co.zw/anti-corruption-commission-boss-jailed/> [accessed on 27 November 2020].

³⁶ The Herald (2014), 'How did Zifa pay a ZAAC investigator?', available at <https://www.herald.co.zw/how-did-zifa-pay-a-zaac-investigator/> [accessed on 24 November 2020].

³⁷ Mashaya, B. (2019), 'Zacc chair, Commissioner resign', available at <https://www.dailynews.co.zw/articles/2019/02/01/zacc-chairCommissioners-resign> [accessed on 27 November 2020].

³⁸ Ibid.

³⁹ Bona <https://twitter.com/ZACCOnline>.

⁴⁰ Bona The Herald (2014), 'How did Zifa pay a ZAAC investigator?'.

⁴¹ Bona, Section 257 of the Constitution of Zimbabwe, 2013.

⁴² See Section 17(1) of the ZACC Act.

amaminisita angacela ukuba iZACC ibhale eminyeimbiko kuthi leyombiko iphiwe umawacela engakapapashwa ukuze awaguqule ngentando yakhe.⁴³La amalungiselelo asuka ahluthulele iZACC uzimele wakhe ngoba loba i-Act ibalisa ukuthi iZACC ingayikhipha imbikoyayo njengokubona kwayo nxa umphathintambo engavumelani lemininingwane ethile, angaphoqa ngamandla akhe epolitika ukuze imbiko iphethe isiguqulwe loba ahle avimbele ukupapashwa kwayo. Abalobi be-Act yeZACC abazange besaloba imigqa ethi imbiko kumele ibaliswe uzulu uma iselotshiwe ipapashwa yiCommission. I-Act ibeka kuphela ukuba kumele imbiko ilethwe iphiwe umphathintambo we Home Affairs ongengeza izithasiselo ngokubona kwakhe.⁴⁴Besekukhipha ke ukukhanya komsebenzi weZACC ibe isilahlekelwa yisithunzi emiphakathini uma ibonakala ingasebenzi kuhle ukwenqabela lokunqoba inkohliso lobugelekeqe. IZACC ayikanelisi ukuloba iphe iphalamende imbiko ngazo zonke izikhathi kodwa okuhlupha kakhulu yikuthi iphalamende ayikabuzi iZACC ukuba kungani isehluleka ukufeza lo umlandu wayo. Ukungabuzwa kubukisa ukuba iphalamende kayizihluphi kangako ngoba ayihlelanga udaba lwenkohliso njengomlandu osenqongweni. Iphalamende yehlulekile ukuhlola imisebenzi yeZACC okumele iyenze emiswe esisekelweni sombuso welizwe. Ukuswelakala kwalokhu kuhlolwa sekwenze ukuba iZACC ibe yisahluleki.

Ukuze iphiwe amandla iZACC ngokwabela izisebenzi zayo amanye amandla ngo28 Nhlangua 2019, umphathintambo owogatsha lwemithetho oweJustice, Legal leParliamentary Affairs ucindezele umthetho kuStatutory Instrument 143/2019, iCriminal Procedure and Evidence (Designation of Peace Officers) (Amendment) Notice, 2019 (No. 3), ebiza izisebenzi zeZACC ithi bango“maqhuza bokuthula” njengamapholisa kuyo yonke imilandu engaphansi kweCriminal Procedure and Evidence Act. Lokhu kutsho ukuba izisebenzi zeZACC sezaphiwa amandla okubopha ababengelawo kuqala. IZACC Act ipha iZACC amandla abanzi okwenza yanelise ukulwisa inkohlakalo okuzwayo. Kodwa amandla akhona awakenzi ukuba iZACC yanelise ukufeza imilandu yayo ngendlela eyayikhangelelwe ngabalobi bomthetho oweZACC Act. Amandla anikwe iZACC athi kwezinye izikhathi kumele isebenzelane lamapholisa, lenkundla yelizwe emangalela amacala kanye lewofisi ka-Attorney General. Isibonelo salokhu yilesi esithi ukhomishina weZACC kumele ahambe lepholisa nxa esiyaguduza kumbe ehluthuna impahla zabantu abasolelwa amacala enkohlakalo lobugelekeqe.⁴⁵

Ngo19 Nhlangua 2020, izisebenzi zeZACC zatsho ukuba zasebenzisa amandla azo ukubopha owayengumphathintambo owezempilakahle oweHealth and Child Careu-Obadiah Moyo.⁴⁶ Lesi isehlakalo siyabukisa ukuba abasebenzi beZACC basebeqalile ukusebenzisa amandla abo amatsha awokubopha abawaphiwayo. Kodwa ke amandla aweZACC awokubopha asedale izingxoxo ezinengi zempikiswano eziyimbango ikakhulu ecaleni kalo owengumphathintambo weHigher and Tertiary Education uJonathan Moyo, lomsekeli wakhe uGodfrey Gandawa. IZACC yabeka icala phezu kukaMoyo elokusebenzelana nsitha loGandawa lezinye izikhulu zeMinistry yakhe bethatha okungekho emthemthweni imali edlula i-US\$400 000 ezeZimbabwe Manpower Development Fund (iZIMDEF) beyihlohla ezikhwameni zabo. UMoyo waphetha ebotsiwe, wasibangisa ukubotshwa kwakhe kuMthethwandaba weSisekelo Sombuso oweConstitutional Court of Zimbabwe, ephikisa esithi iZACC yayingelawo amandla okubopha. IConstitutional Court yavumelana laye isithi iZACC ngempela yayingelawo amandla okubopha kodwa ipholisa elalithunywe ngabeZACC lalilawo amandla okubopha.⁴⁷Kwasekuphetha ngokuthi uMoyo akhululwe.

⁴³ Ibid, and 17(4) of the ZACC Act.

⁴⁴ Bonau, Section 17(6)(b) of the ZACC Act.

⁴⁵ Bonau, Section 13(4)(b) of the ZACC Act.

⁴⁶ Murwira, Z. (2020), 'ZACC arrests health minister', available at <https://www.herald.co.zw/zacc-arrests-health-minister/> [accessed on 27 November 2020].

⁴⁷ Bona, the court ruling Moyo v SgtChacha& Others (CCZ 19/17, Const. Application No. CCZ 73/16) [2017] ZWCC 19 (20 September 2017) available at <https://zimlil.org/zw/judgment/constitutional-court-zimbabwe/2017/19> [accessed on 20 December 2020].

Okunye yikuthi iZACC ayiphiwa imali eyaneleyo.⁴⁸ Ilizwe leZimbabwe lapho iZACC esebenzela khona likhulu kodwa ilamawofisi eHarare, eGweru, lakoBulawayo kuphela amanye amadolobho engelawo. Ukuswelakala kwamawofisi kubukisa ukuswelakala kwezimali. Ukungabikhona kwesikhwama esizimele sodwa esiphiwe iZACC kuyisizatho esikhulu kakhulu esiliphutha elikhona phakathi kwe-ZACC Act leConstitution yeleZimbabwe. Inhlanganiso yokwenqabela inkohliso i-Anti-Corruption Agency (iACA) esebenza okuzwayo ifanele ibe lezimali zayo yodwa ukuze ibhadalele yonke imsebenzi yayo igcwalise yonke imilandu yayo yokunqoba inkohlakalo.⁴⁹ Le yindlela enhle yokusebenza encomekayo kumazwe onke omhlaba. IZACC iyehluleka kabanzi kule imilandu ngoba kwasekuqaleni ayikaze iphiwe izimali zesikhwama sayo ezaneleyo evela kusikhwama selizwe eseTreasury. Ukuhlelwa kwemali iphiwa iZACC evela kusikhwama selizwe sekwehlile ngokuhamba kweminyaka kwaya ngaphansi kwe20% yemali ebezicelwa yinhlanganiso.⁵⁰ Lokhu kuchasisa ukuba kungani kulesicelo sokuthi zonke impahla ezihluthunwa yile inhlanganiso kumele itshumi lanhlanu ekhulwini yentengo yezimpahla ebe zebiwe iphiwe iZACC ukuze ithole imali yokuqhuba imsebenzi yayo.⁵¹ Esikhwameni selizwe esi ka2019 umugqa ophumileyo uthe iZACC iphiwe izigidi ezinhlanu zamadola eMelika.⁵² Ngaphansi kakhulukazi le imali kulaleyo eyayicelwe yinhlanganiso eyayicatshangelwe yabekwa isedlula izigidi eziyisithiyangalolunye zamadola eMelika.⁵³ Ukuphiwa imali encane sekwenze ukuba imisebenzi yeZACC ikhubazeke lokwanelisa kwayo ukufeza imilandu yayo yokunqoba inkohlakalo kwehle kakhulukazi. Imali eyamukelweyo ivela kuTreasury isuka yanele kuphela ukubhadala imiholo. Ayanelisi izindleko zonke zokuchwayisisa okupheleleyo kumbe imikhankaso yokwenqabela inkohlakalo elizweni lonke.

IZACC ingabonakala kuphela izimele kuhle ingabandlululi ngokukhangela isibi sawo wonke amaCommissioners ayisebenzelayo. NgoMbimbitho 2019, umongameli welizwe wakhetha igqwetha u Loice Matanda-Moyo waba ngumgcinisihlalo weZACC.⁵⁴ Lesi isehlakalo senzakala ngesikhathi iCommittee ye Standing Rules and Orders iphakathi kokukhetha amalunga amatsha awekhomishini enanini elingange130 elabantu ababebhalele ukudinga limsebenzi.⁵⁵ Isinqumo sikaMnangagwa sokukhetha uL. Matanda-Moyo sesidale insolo enkulu abanye besola ukuba kasuye muntu ozimeleyo kodwa esehlangothini thile. Kungenxa yokuba wendele kumuyi owaye ngumphathintambo weForeign Affairs and International Trade uSibusiso Busi-Moyo.⁵⁶ Loba nje kungaba lempikiswano ukuba ukutshada kukamgcinisihlalo kungenelana njani lokukhethelwa kwakhe umsebenzi ukuxabana kwemilandu kusobala kukhona ekukhethweni kuka Matanda-Moyo kungeke kudelwe nje. U.S.B. Moyo yena ngokwakhe usesolakele ngokusolelwa ekuphangeni okukhulukazi kwezembiwayo ngesikhathi ilizwe leZimbabwe lingena phakathi

⁴⁸ Mupondo, R. (2019), 'Poor funding compromises Zacc independence', available at <https://www.newsday.co.zw/2019/11/poor-funding-compromises-zacc-independence/> [accessed on 27 November 2020].

⁴⁹ Bona, Jakarta Statement on Principles for Anti-Corruption Agencies (2012), available at <https://www.epac-eacn.org/latest-news/98-principles-for-anti-corruption-agencies>.

⁵⁰ Katongomara, A. (2018), 'ZACC operations under threat', available at <https://www.chronicle.co.zw/zacc-operations-under-threat/> [accessed on 27 November 2020].

⁵¹ Mhlana, P. (2020) 'ZACC goes for broke', available at <https://businesstimes.co.zw/zacc-goes-for-broke/> [accessed on 19 November 2020].

⁵² Bona, Zimbabwe National Budget Statement (2019) at p. 168.

⁵³ Langa, V. (2017), 'Underfunding stifles Zacc operations', available at <https://www.newsday.co.zw/2017/04/underfunding-stifles-zacc-operations/> [accessed on 15 November 2020].

⁵⁴ Mpofu, M. (2019), 'Latest: President Emmerson Mnangagwa appoints new ZACC chairperson', available at <https://www.myzimbabwe.co.zw/news/43219-latest-president-emmersonmnangagwa-appoints-new-zacc-chairperson.html> [accessed on 10 November 2020].

⁵⁵ Ibid.

⁵⁶ Kanambura, A. (2019), 'Uproar over Mnangagwa's Pick of New Chair', available at <https://www.theindependent.co.zw/2019/03/29/uproar-overmnangagwas-pick-for-new-zacc-chair/> [accessed on 7 November 2020].

wempi yomdeni kweleDRC.⁵⁷ Iqiniso liqonde nta ekungakhethini kwakhe uma izizalwane zelizwe bezizamangalela umkakhe ngamacala akhe okuphanga ensolweni yokubhuqa izingcebo zokwenjiweyo okudalwe ngabantu beZimbabwe kuleya impi lapho ojenene abangebangaki abanotha khona. Kusobala ukuba inhlanganiso eyenqabela inkohlakalo kumele izimele qecele ibonakale ukuba iyazimela ayiholwa ngamazwi lentando yabezombusazwe ayisinodoli yabezombangazwe. Akusimfihlo ukuba iZACC ibe yinhlanganiso esetshenziswe ngumsekeli kamongameli uConstantino Guvheya Chiwenga ngoMarch 2021 ukubopha umkakhe obesemhlamukele uMary Chiwenga ngokummangalela ngamanga ambumbulu ukuba lo mfazi kade efihla imali yamanye amazwe, ikanti kuze kufike sonalesi isikhathi kakatholakali elecala. Izikhokho azekezaba ngamalunga engatsha zebandla elibusayo njengoProf. Jonathan Moyo sezikubeke obala ukuba ukungenela kweZACC emacaleni afana lala kubi kakhulu ekufanekiseni isimo sale inhlanganiso.⁵⁸

↔ **Imithethwandaba yokwenqabela inkohlakalo lobugelekeqe**

Ngo29 Mbimbitho 2018, iJudicial Service Commission yavula emadolobheni awakoBulawayo leHarare imithethwandaba elikhethelo yokwenqabela inkohlakalo ukuze ithethe amacala enkohlakalo ilwisane lemihlobohlobo yobugelekeqe.⁵⁹ Ukubekwa kwale imithethwandaba kuyancomeka njalo kuyisenzo esihle ngoba kusitsho ukuba abehluli bathola ithuba lokugxila emsebenzini wokuthetha amacala awenkohlakalo lobugelekeqe. Busuka bube ngcono ubudlelwano benani lamacala lomahluli ozawathetha kukhuphule isaneliso sokuthetha lokuphetha amacala ngendlela ezincomekayo ezifaneleyo. Kodwa ke akulalwazi olwethulelwe umphakathi olutshengisa ukuqhubeka lokuphumelela kwalesi senzakalo emnyango wezemithetho. Imithethwandaba yekhethelo isiphathiswe ngokungeniswa komthetho wesengezelelo olwisa ukuhlambalazwa kwemali eseMoney Laundering and Proceeds of Crime Act esilemigqa ebeka ithemba emahlanganweni ezindlela zikazulu lezobugebengu ukuze kunqotshwe amacala ezemali ngokukhangela ukuhluthuna lokuthathela aboni yonke inzuzo evele kumisebenzi yokuganga lokweba. Abehluli labatshutshisi bayafundiswa okwakhathesi ngezindaba zokukhohlakala. Ukubekwa kwemithethwandaba yekhethelo sekubone ukutshutshiswa kwabaphathintambo abahlanu asebatshiya izikhundla, ababili babo sebegwetshelwe amacala abo.⁶⁰

↔ **Inhlanganiso yabatshutshisi eyeNational Prosecuting Authority (iNPA)**

INPA ibunjwe ngesiqondiso sesigaba uSection 258 weConstitution of Zimbabwe.⁶¹ Isebenza ukuqala lokuqhuba ukumangalelwa amacala obugebengu, egoqela inkohlakalo lobugelekeqe. Ingeyinye inhlanganiso amacala avela eZACC asiwa khona ukuze atshutshiswe athethwe. Abatshutshisi abaqatshwe yiNPA labo sebeke babekwa amacala okukhohlisa. Isibonelo ngesika17 Ntulikazi 2020; iZACC yaqinisa ukubotshwa lokuma emthethwandaba okweProvincial Public Prosecutor yeHarare owabotshwa loSenior Assistant Commissioner Detective Assistant, u-Inspector loDetective, bonke bengabePolice Commercial Crimes Division-CCD Unit, bethweswe amacala okusolelwa ukuhlambaza imilandu yabo ngezindlela zobugebengu.⁶² INPA ihlala ihlonulelwa ngabatshutshisi bengeniswe okwesikhatshana bevela kuhlandle lweZimbabwe

⁵⁷ UN Security Council (2002), 'Letter dated 15 October 2002 from the Secretary-General addressed to the President of the Security Council', available at <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/DRC%20S%202002%201146.pdf> [accessed on 19 October 2020]

⁵⁸ Pindula News (2019), 'If there's a crime here, it's ZACC's shocking involvement, Jonathan Moyo on Marry Chiwenga charge sheet', available at <https://news.pindula.co.zw/2019/12/15/if-theres-a-crime-here-its-zaccs-shocking-involvement-jonathan-moyo-on-marry-chiwenga-charge-sheet/> [accessed on 1 November 2020].

⁵⁹ Chingarande, D. (2018), 'Anti-corruption courts officially open' available at <https://www.newsday.co.zw/2018/03/anti-corruption-courts-officially-open/> [accessed on 25 December 2020].

⁶⁰ Matumbi, C. (n.d.), 'Combating corruption through effective criminal justice practices, international cooperation and engagement of civil society: the Zimbabwean perspective' available at https://www.unafei.or.jp/publications/pdf/RS_No107/No107_32_IP_Zimbabwe.pdf [accessed on 25 December 2020].

⁶¹ Bona, <https://zimlil.org/zw/legislation/act/2013/amendment-no-20-constitution-zimbabwe>.

⁶² Masakadza, B. (2020), 'Senior Cop, Prosecutor in Court', available at <https://dailynews.co.zw/senior-cop-prosecutor-in-court/> [accessed on 2 November 2020].

Republic Police (eZRP) okubekwe kwathiwa akukho esimisweni sokubuswa kwelizwe ngoba kuphambene kusephula uSection 208 (4) owesisekelo (Constitution of Zimbabwe Amendment (No. 20) 2013).⁶³ Imiphakathi eyabuzwayo yakhesa ukuba abanye babo abesipholiseni angabakhohlisi abangelalwazi lokutshutshisa amacala okukhohlisa.⁶⁴

↔ **Inhlanganiso yeZimbabwe Republic Police (ZRP) - Police Anti-Corruption Unit (iPACU)**

IZRP ibona, iphenye ibuye yenqabele inkohlakalo. Igunya lePACU ngelokunyathela, ukuphenya lokubona amacala enkohlakalo lawo wonke amacala awomkhonomi adalwa phakathi kwengatsha zikahulumende aamapharasitathali kumbe adalelwa wona, ezihlanganisweni zomthetho kanye lemnyango ozimeleyo. Ihlose ukukhuphula izinsika ezine zokubusa kuhle kumabhizimusi lakunhlanganiso. Kodwa lolu ugatsha lutholakala kuphela eHarare lakoBulawayo, okutsho ukuba ukuphumelela kwalo kukhubekile kakhulu. Kusobala futhi ukuba iZRP yalimala kakhulu ngokudela inkohlakalo iyibhekile ikakhulu eqalwe ngabaphathi bayo. Kulodaba lomkhulu osewatshiyayo uCommissioner-General u-Augustine Chihuri, amapholisa amyeka nje adela konke ukusolelwa kwakhe kokukhohlisa waze watshiya umsebenzi. Okwakhathesi loba ehlala ngaphandle kwelizwe uCommissioner lo useyethwese icala lokukhohlakala nanku icala kaliboli.⁶⁵

↔ **Ugatsha lwekhethelo lokwenqabela inkohliso (iSACU) olusewofisini kaPresident leCabinet**

NgoNkwenkwezi 2018, uPresident Emmerson Mnangagwa waqala iSpecial Anti-Corruption Unit (iSACU) ibekwe e-Office of the President and Cabinet ukuze ikhuphule ukusebenza ekulwiseni yonke imihlobo yokuhlambaza izimali lokuqinisa impumelelo yezindlela zelizwe zokwenqabela inkohliso.

Izinhloso ezimqoka zalolu ugatsha zigoqela lezi ezilandelayo: Ukukhuphula izinga lokusebenza ekulwiseni yonke imihlobo yokukhohlakala lokuqinisa lokukhuphula ukuphumelela kwezinhlanganisano zelizwe ekuvimbeni lekulwiseni inkohliso lulandela amaqhinga alo elizihlelele wona awokwenqabela inkohliso lemizamo yawo yokusebenza. Ugatsha lweSACU luhlonyulelwa yiZimbabwe Anti-Corruption Commission (iZACC) kanye leZimbabwe Republic Police (iZRP), lezinye izinhlanganisano ezilwisa lokukhohlakala lobugelekeqe. Lubuya luncedise iZACC lezinye izinhlanganisano ezichwayisisayo ezelizwe ekuthungatheni lekubumbeni amadokoda enkohliso, lulandela ukukhutshwa lokunikwa amandla okubeka icala nguProsecutor General, ukubeka amacala enkohlakalo ahanjiswa enhlanganisweni yeNational Prosecuting Authority yizinhlanganisano eziphenyayo.

Kodwa ugatsha lolu lwekhethelo iSpecial Anti-Corruption Unit alondlekanga ngoba ubukhona balo abusekelwanga ngumthetho. UMr. Munyaradzi Bidi we-ACT-SA wathi yena lolu ugatsha lungavalwa nxa kungakhethwa omunye uPresident.⁶⁶ Yena uPresident wathi elubika lolu ugatsha loChief Secretary wakhe, kabazange batsho ukuba luholwa yiphi inhlanganisano yezomthetho lokuthi lulamandla angakanani emthethweni, kungaphetha nje kuthiwe le iSpecial Unit yabunjwa kulandelwa isimiso sikaPresident, sona esimgcike ukuba siyingxenye yokubusa ngokunganaki umthetho, okusuka kuholele emibonweni yokuthi lugatsha olungekho emthethweni olwabunjelwa ukulwisa izitha ezicatshangelwayo zepolitika eziphikisana lababusi abasezikhundleni okwakhathesi kanye lokunyathela kuphinda kabili imisebenzi evele iqhutshwa yiNational

⁶³ Bona, Zimbabwe Law Officers Association & Another v NPA & Others (CCZ 1/19, Const Application No CCZ 32/14) [2019] ZWCC 01 (19 February 2019), available at <https://zimlil.org/zw/judgment/constitutional-court-zimbabwe/2019/1> [accessed on 26 December 2020].

⁶⁴ Meeting of 1 August 2020 with members of the Kwekwe Anti-Corruption Monitoring Voluntary Action Group.

⁶⁵ Ngoro, T. (2019), 'Justice at last as Augustine Chihuri, Senior police officers face arrest for abuse of office during Mugabe days', available at <https://i-harare.com/justice-at-last-as-augustine-chihuri-senior-police-officers-face-arrest-for-abuse-of-office-during-mugabe-days/> [accessed on 3 November 2020].

⁶⁶ Meeting with Munyaradzi Bidi of the Anti-Corruption Trust of Southern Africa on 13 August 2020.

Prosecuting Authority (iNPA), loba nje lolu gatsha lungelawo amandla okubeka abantu amacala emthethwandaba.⁶⁷ Kulokungasuthiseki okukhulu kakhulu ukuthi lolu gatsha alusebenzi lutho oluphathisa uzulu kulokuthi alubumbe uPresident kwakumele asebenzise izimali eziluchithayo ukuba akhuphule aqinise imisebenzi yeNPA.⁶⁸

Umutsho kaChief Secretary ekubikweni kwalolu gatsha lutshengisa ukuba amandla okubeka abantu amacala azanikezwa lolu gatsha lwekhethelo nguProsecutor General bese ke luhloma lumangalela lubeka amacala njengenjwayelo.⁶⁹ Njengoba nje kuliqiniso kuyinjwayelo ukuba uProsecutor General (uPG) yiyo yodwa inhlanganiso elamandla lomlandu emthethweni wokubeka abantu amacala kusobala ukuba isenzo sikaPresident lokukhetha kwakhe ukubumba lolu gatsha kakukho emthethweni.⁷⁰ Isimanga sesitatimende sakhe yikuthi wathi amalunga eSpecial Unit azaholwa ngumthetho ofungisa isisebenzi ukugcina imfihlo yomsebenzi (i-Official Secrets Act), isimo esibeka imithwalo enzima kakhulu esinda emahlombe ingejwayelekanga ibuya yethuse ukuba azakuba esebenza mfihlo bani. Awakho amandla emthethweni aphiwa i-hofisi kaMongameli iyivumela ukuba isebenze kumbe ingenele imisebenzi yokubeka abantu amacala lokubamangalela iphambanisa igxamalazela ikhuba inhlanganiso yokubeka amacala. Okupheleleyo yikuba i-hofisi kaMongameli izimele kude lemisebenzi yokubeka abantu amacala lokubamangalela. USection 258 weConstitution⁷¹, umthetho osenqongeni welizwe, ukubeka obala ukuba ukubeka amacala lokumangalela kusezandleni zeNPA. Yilo lodwa ugatsha olulamandla okutshutshisa, ukubeka amacala limele ilizwe. Kulesiphambuko esibekwe kuSection 263, esithi amandla okutshutshisa angaphiwa abanye abantu abangasibeNPA, kodwa lawo mandla emthethweni kumele aphiwe kuphela ngemva kwesimiso sePhalamende i-Act of Parliament, lawo mandla akumelanga avimbele kumbe aphambane lamandla avele ekhona esetshenziswa yiNPA ewaphiwe yiConstitution. Akulasizatho esithi sona amandla ogatsha lwekhethelo avele ephalamende lokuthi le Special Unit ingatshutshisa ngamandla ayo ewaphiwe yi-Act of Parliament. Okusobala yikuthi le Special Unit yisilwane esidalwe yisimemezero nje sikaPresident.

INPA iqondiswa nguMtshutshisi Omkhulu uProsecutor General, iwofisi yakhe izimele yodwa ngundiphethe nje ayikho phakathi kweminyango yemisebenzi kazulu. Abantu abancedisa uPG ekufezeni imisebenzi yakhe baqatshwa yibhodi esungulwe yisimiselo se-Act of Parliament. Kungakho uSection 259(10) ebhalwe walanda esithi: "Isimiselo sePhalamende kumele silungiselele ukukhethwa kwebhodi ezaqatsha abantu bokuncedisa uProsecutor-General." Labo bantu abatshutshisayo akumelanga loba sekutheni bavele ngaphandle kwamagama eNPA. Otshutshisayo ngoweNPA kuphela. Kulesizatho ukuba kungani uPG lezisebenzi asebenza lazo esebenza ngaphandle kwezimiso mvama zomnyango kazulu; yikuvikela undiphethe wabo. Kungakho ke ukubeka abatshutshisi ewofisini kaPresident kuzifananela lokufaka ingwe ematholeni ngoba kuyingozi elulaza umgomo oqakathekileyo wokuzimela kuphe insolo yokuthi lolu gatsha yisikhali sepolitika esisetshenziswa ukugadla izitha zepolitika zababusayo.

Yona iPolice Anti-Corruption Unit (iPACU) ayikavulwa elizweni lonke ngoba ikhona kuphela eHarare lakoBulawayo, ikanti inkohlakalo igcwele ilizwe lonke. Kuyafana nje ngoba layo iZACC ayigcwalanga zwe lonke ngoba ngesikhathi sokubika ibe ilamawofisi kuphela koBulawayo, eGweru laeHarare kuphela, ukanti ilizwe lonke lehlukaniswe ukulawulwa lilezabelo ezilitshumi,

⁶⁷ Nyarota, D. (2020), 'Mnangagwa's Special Anti-Corruption Unit illegal', available at <https://263chat.com/mnangagwas-special-anti-corruption-unit-illegal/> [accessed on 17 November 2020].

⁶⁸ Ibid.

⁶⁹ Office of the President and Cabinet (2018), 'President Mnangagwa establishes a Special Anti-Corruption Unit', available at <http://www.theopc.gov.zw/index.php/303-president-mnangagwa-establishes-a-special-anti-corruption-unit> [accessed on 3 February 2021].

⁷⁰ Kairiza, T. (2018), 'Mnangagwa's anti-corruption unit illegal' available at <https://www.theindependent.co.zw/2018/06/01/mnangagwas-anti-corruption-unit-illegal/> [accessed on 3 February 2021].

⁷¹ Bona, <https://zimlil.org.zw/legislation/act/2013/amendment-no-20-constitution-zimbabwe>.

ehlukaniswe aba yizigaba ezingu59, izigodi ezingu1,200 kanye ezilenani labantu elibalisa i14.44 million (2018).⁷²

Izinhlanganiso ezikhona zibekwa amacala okuba zizingenise ebucayini obukhulu kakhulu ngoba ezinye zazo ziholwa ngabantu abakhohlakeleyo abathatha amandla abo ebaphathini bakahulumende hatshi ezimisweni zephalamende kumbe ezimiselweni zesisekelo sombuso welizwe. Isibonelo yiSpecial Anti-Corruption Unit esewofisini kaPresident leCabinet ethatha izilayezo zomsebenzi kuPresident izibeka obala ukuba ayizimelanga.⁷³ Isibonelo; uDirector wePolice Intelligence uCommissioner uDouglas Nyakutsikwa uselobe isicelo sokudlulisela lolu udaba eConstitutional Court (eConCourt) lapho afisa ukuba abangise ukulunga ngomthetho lokuvunyelwa emthethweni ukubunjwa lokumiswa kweSpecial Anti-Corruption Unit (iSACU), iphethwe ngabantu ababili abagoqela umqondisi wemisebenzi lokwakhiwa kwezindlu oweCity of Harare, bobabili bebhokane lamacala okuhlambalaza imisebenzi yamawofisi abo. UMn. Nyakutsikwa uzafuna ukuba iConCourt yenze umlayezo ozamemezela ukuba imisebenzi yeSACU ayikho emthethweni yesisekelo sombuso welizwe. Inhlanganiso yeTransparency International Zimbabwe (iTl-Z) layo ithi iSACU lugatsha olungekho emthethweni, olusuka luphinde kabili okungadingekiyo imisebenzi yogatsha olutshutshisayo okusemthethweni.⁷⁴ Kuleziboniso ezinengi lapho izinhlanganiso ezikhona zethweswa amacala okusetshenziswa yisigungu sikahulumende lamabandla ezombusazwe ukuze lawo magungu labaphathi bagcwalise izifiso zabo zepolitika, ikakhulu nxa bebonakala bebhokise ulaka lwabo ebantwini ababacabangela ukuba bayizitha zabo kwezombangazwe, betshiya egcekeni abantu abakhohlakeleyo abaseduze labaphathi bengathintwanga. Udaba luka-Obert Mpofu, mandulo obengumphathintambo weMining lamaMinerals Development, obalelwa lehlazo lokunyamalala kwe-US\$15 bhiliyoni yendayimana, lumgceke.⁷⁵ Uluhlu olulandelayo lukhanya kabha lucwazimulisa izihlangu zokuvimbela inkohlakalo ezehle isithunzi: iZACC, iProsecutor-General, iNPA,

- Mandulo umkhokheli owenzihlangu eyeZACC, uChief Executive Officer, uMn. Ngonidzashe Gumbo, wagwethshelwa okweminyaka embili ngo2015 ngemva kokudla ngamacebo i\$435 000⁷⁶ yeZACC;
- Ngesikhathi sokulotshwa kwaloumbiko ilunga eliphezulu leZACC lalimiswe umsebenzi ngesiphosiso sokweqa umthetho ngemva kokwathulwa kwensolo emahlombe akhe uPresident Mnangagwa wasebumba ibandla lokuthetha icala lidingisisa ukufanela kwakhe ukuphatha iwofisi likazulu;⁷⁷
- Mandulo enguProsecutor-General uJohannes Tomana wabotshwa ngo8 Ntulikazi 2016 wabekwa amacala ambalwa okuziphatha kubi emsebenzini, kugoqela amacala okuhlambaza ngobugebengu iwofisi yakhe. Esabhekane lala amacala uTomana, uPresident Mnangagwa wamangaza esemkhetha embeka esikhundleni sokuba ngummeli uAmbassador weDemocratic Republic of Congo (iDRC), okubeka obala ukuba ukuqashwa akugxilanga ebuqothweni babantu abaqatshwayo.⁷⁸

⁷² Bona, https://en.wikipedia.org/wiki/Districts_of_Zimbabwe.

⁷³ Bona, Nyarota, D. (2020), Zimbabwe: 'Mnangagwa's Special Anti-Corruption Unit illegal' [accessed 25 December 2020].

⁷⁴ Ibid.

⁷⁵ Report Focus Ltd (2018), 'Obert Mpofu refuses to testify on the missing \$15 billion diamond revenue', available at <https://www.reportfocusnews.com/2018/02/22/obert-mpofu-refuses-testify-missing-15-billion-diamond-revenue/> [accessed on 26 November 2020].

⁷⁶ Bona, Nemukuyu, D. (2015), 'Anti-Corruption boss jailed'.

⁷⁷ Murwira, Z. (2020), 'ZACC Commissioner faces corruption allegations', available at <https://www.herald.co.zw/zacc-commissioner-faces-corruption-allegations/> [accessed on 27 November 2020].

⁷⁸ Madimure, J. (2020), 'President deploys 5 ambassadors', available at <https://www.herald.co.zw/just-in-president-deploys-5-ambassadors/> [accessed on 27 November 2020].

- Ngo27 Zibandlela 2020, iNdunankulu yaboMahluli uLuke Malaba, uChief Justice weleZimbabwe wakhesa ukuba iNPA ibekwe icala lokwahluleka ukutshutshisa okuzwayo, okujiyeza ukufezwa komthetho ngoba abasolelwayo baphetha bekhululwa yimithethwandaba ngoba ukutshutshisa kusilela. Lesi simo sigcizelela isifenko sokuthi 'babambe ubakhulule'.⁷⁹

Kuqakatheke kakhulu ukunanzelela ukuba ezinye zalezi izinhlanganiso zilemithamo emincane kakhulukazi. Lokhu kukhuluma kabanzi ngokwanelisa kwazo ukulwisana lenkohlakalo. Akumangalisi ke ukuba ubukhona balezi izinhlanganiso abulethi ukwehla kwamacala okukhohlakala. Khona ukuphenya kusuka kube kude kuthathe eside isikhathi kumazombezombe, besekusiba labalutshwana abalahlwa ngamacala elizweni leZimbabwe.

1.2.3 Ukusebenza okuhle

Ukuhlelwa kweZimbabwe Republic Police (ZRP) - Police Anti-Corruption Unit (iPACU) yisibonelo esihle esokuhlomulela imizamo yeZACC.

Ukuvulwa kwemithethwandaba yekhethelo yokuvimbela inkohlakalo koBulawayo leHarare yikusebenza okuhle ngoba kupha abehluli amathuba okugxila kuphela enkohlakalweni besekukhuphuka inani labehluli lamacala kukhuphuka ukuqedwa kakuhle kwamacala lokuwaphetha kuhle. Selokhu yaqala ngo2018, lemithethwandaba seyatshutshisa abahlanu abaphathintambo asebatshiyayo, ababili babo sebegwetshiwe basejele besebenzela izigwebo zabo.

1.2.4 Izinsilelo

Izinkinga ezinkulu ezimisa ukufezwa kwemilandu yezinhlanganiso okuphumeleleyo, okobuhlakani lokungaqhubeki kuhle kugoqela imithetho engelamandla, izimali ezincinyane, kanye labantu abangelamandla lokwanelisa okupheleleyo abatholakala kulezi zinhlanganiso zokwenqabela inkohlakalo. Isibonelo yiZACC engalamawofisi labasebenzi ezigabeni zelizwe, okusuka kukhube ukwanelisa kwayo kokusebenza ngendlela efaneleyo. Futhi kubuya kuthi iSpecial Anti-Corruption Unit esehofisini kaMongameli welizwe iOffice kaPresident leCabinet ikholwe kakhulu ukuba ayimelanga yondliwe ngoba ayibunjwanga ngendlela evunyelwa yimithetho yelizwe.

Insilelo enkulukazi yalezi izinhlanganiso yikuswela ukuzimela undiphethe opheleleyo lokuhlala zikhulelwa yikugxamazela kwabezombangazwe emisebenzini yazo, njengesibonelo seSACU ekholelwa ukuba ithonywa kakubi libandla lezombangazwe elikaPresident ofuna ukutshutshisa izitha zakhe zepolitika lezoqhudelwano lwelizwe. Icala likaKasukuwere ephikisana lo Muaya labanye (*Kasukuwerere v Mujaya and Ors*) liyisibonakaliso esibi sibili sokungakhululeka lokungazimela kwabehluli elizweni iqiniso elitholakala emithethwandaba yabomantshi iMagistrates Courts, ikakhulu ngezikhathi le mithethwandaba isabela imithetho.⁸⁰ Ingqikithi yezombangazwe iqakathekile ekubekeni izingomela zokungenela lokugxamezela kwezombangazwe kanye lokuswelakala kondiphethe wabahluli. Embuthanweni yezombangazwe ngoMpandula 2020, uPresident Emmerson Mnangagwa watshela abasekeli bakhe ukuba uzacela ilizwe leSouth Africa ukuthi libuyise abalandeli bakaRobert Mugabe⁸¹ obengumongameli mandulo ngoba belamacala. Inhlango yelizwe eyokutshutshisa yahle yanamathela kuleli ilizwi lokusonga ngokuya emthethweni icela ilizwe leSouth Africa ukuba liphendukise umphathintambo wamandulo uSaviour Kasukuwere ngoba ngokubona kwayo ube eyisitha kwezombusazwe

⁷⁹ Judicial Service Commission (2020), 'Chief Justice Malaba', available at <https://www.jsc.org.zw/jscbackend/upload/Publications/Chief%20Justice%20L%20Malaba%2027-01-2020.pdf> [accessed on 25 December 2020].

⁸⁰ *bona Kasukuwere v Mujaya & 3 Others* (HH 562-19, HC 11252/18) [2019] ZWHHC 562 (21 August 2019), available at <https://zimlil.org.zw/judgment/harare-high-court/2019/562> [accessed 2 January 2021].

⁸¹ Du Plessis, C. (2020), 'Zimbabwe seeks former Mugabe minister Saviour Kasukuwere's extradition to face criminal charges', available at <https://www.dailymaverick.co.za/article/2020-10-13-zimbabwe-seeks-former-mugabe-minister-saviour-kasukuweres-extradition-to-face-criminal-charges/> [accessed on 27 November 2020].

elamacala angakathethwa emithethwandaba yena wabaleka elizweni ukuthethwa kwamacala akhe kungakaphutshi. Icala lakhe lakuqala lalimayelana lokuhlabaza iwofisi yakhe yena uKasukuwere. UKasukuwere wayeyethwese icala lokupha izikhothimathe zakhe umhlaba welizwe esesewofisini engalandelanga ingqubo efaneleyo. Wathi esemangala esephikisa uKasukuwere wathi ingqubo yokubotshwa lokubekwa icala kwakhe yayingaqondanga belo ukuthethwa kwecala lakhe kwakungeyisimfanelo, umahluli wayevele esethole ukuba kwasekusetshenziswe ukuphoqa okukhulu kwezombangazwe ukuba athoniswe afumaneke elecala. Ujaji wasekela uKasukuwere esithi unanzelele kokulotshiweyo ukuba ilizwe lalingabekezeli lixhamazela nje liphelelwe lithemba lifuqa ukuba icala lithethwe litshetshiswa nguState Prosecutor ikanti ilizwe belifihla ulwazi oluqakathekileyo ingaluphi amagqwetha ayemele uKasukuwere.⁸² Izithasiselo zakhe umahluli zilesabelo ekungabandlululi lekuzimeleni kogatsha lwezemithetho.

Ukungabikho kondiphethe lokuzimela kwalezi zinhlanganiso kukhuba ukusebenza kuhle besekuholela ekulahlekelweni yizimali ezingenakuphenduka ngenxa yokungenela kwabezombangazwe ukuziphindisela ezitheni zabo ezindabeni eziphathelelene lenkohlakalo lobugelekeqe.

1.3 Isivumelwano Sesikhombisa (Article 7) – Uhlandla lukazulu

1.3.1 Ukuhumutsha Isivumelwano

Isivumelwano (Article) 7 seUNCAC sethula iziqondiso kumbuthano yamazwe angamalunga alesisivumelwano ukuze kuhanjiswa ngomthetho indlela mayelana lokukhethwa kwabantu abazasebenza, ukhetho lokwenyuswa emisebenzini kazulu, ikakhulu ukukhanya lokusekela indlela lezi ngemali. Ukuphatha izindawo zikazulu kusetshenziswa izindlela zanamhlanje, kugoqela izikhwica lezingcwethi, abantu abadinga umsebenzi belenhloso yokwakha ibizelo labo lemisebenzi yabo abazayisebenza njengezingcwethi lezikhokho besebethola ke iholo elibhadala ulwazi lwabo. Kuyinjwayelo ukuba izisebenzi zeminyango kazulu eziyizo eziphathelelene lokusebenza kwezamahlabezulu, njengokunika izizalwane okusobala usizo lezimpahla lamaphepha lokuhloma abamabhizimusi ngezimfanelo zabo, zona ke zilesikhundla sekhethelo esehlukileyo kulesiya esezisebenzi zeminyango ezimeleyo. Imithetho ihlela lesi isimo.

1.3.2 Ukulandela izimiso zeSivumelwano

Indlela esemthethweni yokuqatshwa, ukungeniswa emsebenzini, ukugcinwa emsebenzini, ukuholiswa, ukwenyuswa esikhundleni, lokuhlehla emsebenzini kwezisebenzi zikazulu kuholwa yimithetho elandelayo:

- a) iConstitution yeZimbabwe,
- b) iPublic Service Act[Chapter 16:04],
- c) iPublic Service Regulations (2000), kanye le
- d) Public Finance Management Act [Chapter 22:19].

Imithetho yenhlanganiso ngenhlanganiso ikhona njengeyePublic Service Commission (PSC) leyeTraining Advisory Board (iTAB), eyingxenye yeCommission.

IPublic Service Commission ilomlandu wokudala lokukhuphula imigomo lokufeza ukuqatshwa, ukuphiwa imisebenzi, ukugcinwa emsebenzini, ukuholiswa, ukwenyuswa esikhundleni, kanye lezindaba eziphathelelene lokutshiya umsebenzi. Ukuqatshwa emisebenzini kazulu kumele kugxile ekuwufaneleni umsebenzi kugxile ekuyipapasheni imisebenzi endaweni ebonwa ngumuntu wonke omncane lomdala ukuze ofaneleyo abhalele edinga umsebenzi.

⁸² Bona, Kasukuwere v Mujaya & 3 Others (HH 562-19, HC 11252/18) [2019] ZWHHC 562 (21 August 2019), available at <https://zimlil.org/zw/judgment/harare-high-court/2019/562> [accessed on 27 November 2020].

Zonke izisebenzi zikazulu ziyafundiswa ezifundweni ezimayelana leminyango yazo ezingezelela ukulunga emsebenzini lokufunda ukwenqatshelwa kwenkhohlakalo. IPSC ihlala ihlola icwaninga ilungisa iziphosiso zamakhosi ukuze abe ngcono isebenzisa uhlandla oluhlela izifundo eleTraining Advisory Board (iTAB). Izihlanganiso ezimbalwa zihlala zintshintsha abasebenzi abanye zibathiransifeya ukuze zidedise ukukhohlakala lobugelekeqe. Kulezibonelo ezinengi lapho izisebenzi ezisolelwa khona ukukhohlakala besezithiransifeywa kulokuba amacala azo athethwe kumbe zixotshwe emsebenzini kazulu. Isibonelo ngamalunga aweZimbabwe Republic Police aweMazowe athiransifeywa ngenxa yenkhohlakalo kulokuthi abekwe amacala asiwe emthethwandaba agwetshwe axotshwe emsebenzini.⁸³ Sekwedlule nje amalanga efakazelwe ukuba nguProsecutor General, uKumbirai Hodzi wagijima esiyagezisa igqwetha elikhulu leNational Prosecuting Authority (iNPA) ngoba esehlalelwe ukuba wayelensika ezwayo ezike kuhulumende wakuqala okaPresident Robert Mugabe owawusudilikile. Igqwetha leli laliqondisa isigaba samacala omnotho eNPA eyinduna yamandulo yomthetho, wasetshelwa nje ukuba usethiransifeyelwe eGurube, isigaba selizwe esisemkhonweni oweMashonaland Central. Kwakuvele kuhlala kulenkolo yokuthi wayethembekile kumongameli wamandulo uPresident Mugabe evimbele ukutshutshiswa kwezepolitika kwezikhokho zebandla ezazivela eqenjini elalibizwa lithiwe yiG40 – isitha esikhulu esasizwisa umongameli osesikhundleni ngo2021 u-Emmerson Mnangagwa⁸⁴ ubuhlungu.

Ukusifanela isikhundla lokungasifaneli sekubekwe obala ebantwini abancintisela ubumongameli kumbe ubusekeli bakhe⁸⁵ kanye lembangi zamalunga awephalamende.⁸⁶

Umthetho wezokhetho i-Electoral Act [Chapter 2:13]⁸⁷ ipha iziqondiso zokuphuca abantu izikhundla kungenzakala ukuba bagwetshelwe icala eligoqela ukwephula isivumelwano, ukungathembeki kumbe udlame⁸⁸ kumbe izindlela ezingekho emthethweni ezamacala adalulwe ngesikhathi sokukhankasela ukhetho⁸⁹ samabandla oqhudlwano kumbe amalunga amabandla kanye labanini abanhlobohlobo, kanye lemithetho yabo eyelekelelayo ephatha izindaba zokubhadalela imisebenzi yokhetho. Umthetho omisa izeluleko zengcebo zamabandla azombangazwe (iPolitical Parties (Finance) Act [Chapter 2:11])⁹⁰ kanye leminyane imilayo inika iziqondiso zokubhadalela amabandla ezipolitika yilizwe, ichasise imihlobo yezipho zemali evumelekayo lengavumelekiyo ibuye ibeke obala isibopho samabandla esokugcina irejesita lamabhuku ezimali zonke ezinikelweyo kanye lezindleko ezibe khona. Izibopho zokwaphula imithetho le zichasisiwe kuSections 139–141 ze-Electoral Act [Chapter 2:13].

Loma nje izindlela zemithetho lenjwayelo yokuqatsha, ukupha umsebenzi, ukugcinwa emsebenzini, ukuholiswa, ukwenyuswa esikhundleni, kanye lokutshiya umsebenzi kwezisebenzi zikazulu kuhlaba umxhwele, ukufeza kuphahlwe yizinkinga ezimbalwa.

Eyokuqala ngeyokuthi kulokungahlaliseki kukazulu okulokhu kukhuphuka ngokwenza izisebenzi zikazulu amapholithishiyeni besezihlanjaza ukukhuphula izifiso zamabandla ezombangazwe ikakhulu ezebandla elibusayo iZimbabwe African National Union-Patriotic Front (ZANU PF)

⁸³ Karowangoro, A. (2020), 'Mazowe ZRP officers transferred over corruption', available at <https://zimmorningpost.com/mazowe-zrp-officers-transferred-over-corruption/> [accessed on 27 November 2020].

⁸⁴ Machaya, P. (2019), 'Top NPA lawyer Chris Mutangadura ousted over Mugabe', available at <https://www.zimlive.com/2019/02/09/top-npa-lawyer-chris-mutangadura-ousted-over-mugabe-links/> [accessed on 27 November 2020].

⁸⁵ Bonau Section 91 (1) of the Constitution of Zimbabwe.

⁸⁶ Bonau Sections 121 and 129 of the Constitution, and Section 46 of the Electoral Act [Chapter 2:13].

⁸⁷ Bona, <https://www.zec.org.zw/final/files/ELECTORAL%20ACT%20CHAPTER%202%2013%20UPDATED%20.pdf>.

⁸⁸ Bona, Section 46 of the Constitution.

⁸⁹ Bona, Sections 134-157 of the Constitution.

⁹⁰ Bona, <https://zimlil.org.zw/legislation/act/2001/4>.

elizweni leZimbabwe.⁹¹ Isibonelo ngesika3 Mpandula 2017, uMsitheli oweGuruve District, oyisisebenzi sikazulu wacela abangaphansi kwakhe ukuba baqoqe izimali ziyencedisa embuthanweni wentsha yeMashonaland Central ZANU PF Youth Interface Rally. Yona vele imbuthano yeZANU PF youth interface asevele eyimbuthano yezombangazwe kodwa eqoqwa ehlelwa yizisebenzi zikazulu zisebenzisa izimpahla zikahulumende lesikhathi somsebenzi wemawofisini.⁹²

Izindlela zokuqatsha ikakhulu ezezikhundla eziphezulu, azikhanyi. Bonke labo abaqatshelwa izikhundla zekhethelo eminyango ephezulu ngabantu okucatshangelwa ukuba bangeniswe ngamaPEP besekusithi omabhalane abakhulu amaPermanent Secretary aphoqelwe ezingatsheni zikahulumende wona engelalwazi lwemininingwane lapho asefakwe khona. Ukuphana izikhundla ngobuhlobo kubhahile emapharositathali amanengi ikakhulu eNational Social Security Authority (eNSSA).⁹³Ukuhlola kwe-Industrial Psychology Consultants izindawo zokusebenza kwayithola ikhona yandile indaba eyokungenisana emisebenzini ngobuhlobo, inephothizimu. Isampula sezisebenzi ezingu718 sathi sona inani elingamatshumi amathathu ekhulwini i31.3% yaqinisa ukuba kulenephothizimu enengi enhlanganisweni yabo, i30.1% yathi iphakathi laphakathi, i24.9% yakubeka ukuba iphansi kwathi i13.6% yachaza ukuba ayikho inephothizimu.⁹⁴

Ukuqatsha kwemisebenzi yabaqalayo abaphansi ezisebenzini zikazulu ikakhulu kubomongikazi lesipholiseni kufezwa ngesipolitika ngamalahlu amanengi akhutshwa yizigaba ezinengi zelizwe ezamabizo alabo okumele baphiwe imisebenzi lawo maluhlu ehlelwe ngokungenela kwezombangazwe, kungakhangelwanga ukuba labo bantu baphumelele kuhle kumbe hatshi lokuthi bawufanele yini umsebenzi.⁹⁵ Isibonelo sithi uVice President owe Zimbabwe, uMohadi usetshilo ukuba ukuqatshwa kwabomongikazi kumele kulandele lokho okufana lokwamapholisa lokwebutho okuloluhlu lwabaqatshwayo ngezibalo ezibukisa ukuba bavela ngaphi kwelizwe ngesilinganiso senani eliqunyweyo ngesabelo; *“Uzathola ukuba nxa beqatsha kudingwa abantu ebuthweni lesipholiseni balendlela abayibiza besithi ngeyenani eliqunyweyo lesabelo lapho isabelo lesabelo siletha khona abantu baso.”*⁹⁶ Equisweni yikuthi le indlela yokuqatsha ihlala inceda ibandla elibusayo iZANU PF.

1.3.3 Izinsilelo

Izindlela zokuqatsha izisebenzi zingcoliswe yizinkinga ezilandelayo:

- ↔ Izikhundla ezinengi ezinkulu ziphiwa abasebenzi abangena kudala abasebengabaphakathi asebesaziwa ngabezombangazwe. Sekusitsho ukuba abafundileyo bewazi umsebenzi be-apulaya abasekuqatshwa ngoba bengaziwa bengelabuhlobo labezombangazwe.

⁹¹ Anti-Corruption Trust of Southern Africa (2017), 'ZANU-PF abusing and politicizing civil servants in Zimbabwe', available at <http://kubatana.net/2017/09/15/zanu-pf-abusing-politicizing-civil-servants-zimbabwe/> [accessed on 27 November 2020].

⁹² Zimbabwe Human Rights Association (2017), 'ZANU-PF orders civil servants to fund Mashonaland central rally', available at <http://kubatana.net/2017/09/08/zanu-pf-orders-civil-servants-fund-mash-central-rally/> [accessed on 27 November 2020].

⁹³ Ndebele, H. (2017), 'Nepotism rocks NSSA over recruitment process', available at <https://www.theindependent.co.zw/2017/10/27/nepotism-claims-rock-nssa-recruitment-process/> [accessed on 27 November 2020].

⁹⁴ IPC Consultants (2017), 'Nepotism Prevalence in the workplaces survey report', available at <http://ipcconsultants.com/wp-content/uploads/2017/03/Nepotism-in-the-workplace-survey-report.pdf> [accessed on 27 November 2020].

⁹⁵ NewZimbabwe.com (2018), 'Police promotions raise stink as favouritism, tribalism is alleged', available at <https://www.newzimbabwe.com/police-promotions-raise-stink-as-favouritism-tribalism-is-alleged/> [accessed on 27 November 2020].

⁹⁶ Zimeye (2019), 'KemboMohadi sides with Matabeleland', available at <https://www.zimeye.net/2019/10/14/kembo-mohadi-sides-with-matabeleland/> [accessed on 27 November 2020].

- ↔ Kukhanya kulokudidwa okunengi ngendlela efaneleyo yokukhetha izisebenzi okuphetha engxenywe kuthonya ukulunga lobuqotho babakhethayo nxa sekusenyuswa ezikhundleni.
- ↔ Okwamanje kuvele kulemizamo yokuguqula iminyango kazulu lePublic Service ngokupha ngabomo mgceke amasotsha izikhundla zamaPermanent Secretary entanjeni ezinengi zamaGovernment Ministry. Abaqatshiweyo laba kulawo kulezongatsha baphetha nje beyizikhali zepolitika befeza igunya lebandla mhla betsheliwe ukuba bakwenze lokho, okuzifananela nje lenkohlakalo, ngoba bona baholiswa lilizwe ngesikhwama salo hatshi ibhizimusi yebandla elibusayo. Isibonelo yisimo sebutho esixubeneyo sibunjwa ngamasotsha, ama-ofisa ebutho angasasebenziyo, amavethereni awempi yenkululeko yama1970, esesiqalile ukugxilisa izimpande zaso ngokuthatha wonke amandla esingawathatha eminyango kazulu ngezikhundla ezikhona. Kulandela uhluthuno logalelo lwebutho ngo2017, uRtd General Chiwenga waphiwa isikhundla sobuVice President, lesokuba nguMinister of Health, umuyi u-Air Chief Perence Marshall Shiri waqondisa iLands, Agriculture and Rural Resettlement Ministry, umufi uGeneral Sibusiso Moyo waphatha iMinistry of Foreign Affairs and International Trade kwathi uMilitary doctor uAir Commodore Jasper Chimedza waphiwa isikhundla sikaPermanent Secretary ogatsheni lwezempilakahle.⁹⁷

1.4 Isivumelwano Sesitshiyagalo mbili (Article 8) – Imithetho yokuziphatha yezisebenzi zikazulu

1.4.1 Ukhumutsha Isivumelwano

Isivumelwano (Article) 8 sikhuthaza izinhlanganiso zelizwe ukukhuphula ubuqotho, ukwethembeka legunya phakathi kwabasebenzi bakazulu kulandelwa imigomo yazo lemithetho yakhona. Imithetho le lemigomo eyimvama iqinisela ukulandela ukusebenza okuqondileyo, okulungileyo, okuhloniphekileyo lokufaneleyo kwemilandu yonke kazulu. Isivumelwano lesi (Article 8) sikhuthaza izinhlanganiso zelizwe ukufunda ukuziqalela izihlelo ezifaneleyo emihlulbulweni yelizwe, ezabelweni, emhlulbulweni wezwekazi lezinhlangukweni zomhlaba zenhlobo ezifana le-International Code of Conduct for Public Officials, lezinye ezifaneleyo. Izinhlanganiso zelizwe ziyakhuthazwa ukuqala izindlela lemiklamo yokufeza ukuripota inkohlakalo edalwe ngabasebenzi bakazulu. Omunye umthetho oqakathekileyo okhuthazwayo kulesi sivumelwano yikuba abasebenzi bakazulu babeke sobala kulezo ziphathimandla ezifaneleyo iminingwane emayelana lokulandelayo; imilandu abalayo ngaphandle kwePublic Service, ukuqatshwa kwenye indawo, umnotho, izimpahla lezakhiwo, lezipho ezinkulu kumbe inzuzo ezwayo abayithole ngapha langale, engenza ukuba kube lokuphambana lokunaka umsebenzi wabo ezikhundleni zabo.

1.4.2 Ukulandela izimiso zeSivumelwano

Isisekelo sombuso (iConstitution) iqinisa umlandu lesibopho sokuziba ukuphambana phakathi kothando lomsebenzi lemilandu yewofisini kanye lolwezifiso zosebenzayo ezingaphandle komsebenzi. Abasebenza ePhalamende bafungiswa baholwe yiCode of Conduct and Ethics for Members of Parliament besekusiba lemithetho yokuziphatha eyamazinga ehlukeneyo awabasebenzi beminyango eyehlukeneyo kazulu ebekwe obala emthethweni wePublic Entities Corporate Governance Act [Chapter 10:31].⁹⁸ Kodwa le i-Act kayibeki obala izibopho zokukhina opha ulwazi olungamanga. Ukwahluleka kwabasebenzi bakazulu ukubika kophezulu ingqe yiphi impambano lomsebenzi kumbe olunye nje ulwazi oluqondene lalowo msebenzi kumbe olunye udaba loba isehlakalo esensitha esingangenela ekuphatheni lekwenzeni umsebenzi kubizwa kuthiwe yisiphosiso – yikweqa umthetho womsebenzi. Izibopho zokuphosisa zikhona kodwa azandanga ukusetshenziswa.

⁹⁷ Aljazeera (2018), 'Is Chiwenga on a path to transform Zimbabwe in Sisi's Egypt', available at <https://www.news24.com/news24/africa/zimbabwe/is-chiwenga-on-a-path-to-transform-zimbabwe-into-sisis-egypt-20180504> [accessed on 27 November 2020].

⁹⁸ See Sects. 34 and 37 of the Public Entities Corporate Governance Act [Chapter 10:31].

Elizweni leZimbabwe, abasebenzi bakazulu bahlala bephakathi kokuphambana lemisebenzi ngezimo zokuxabana kwemilandu yemisebenzi lezifiso zabo zangaphandle. Isibonelo ngesika2013 lapho uSupa Mandiwanzira, umnini wenkampani yokusakaza waphiwa isikhundla sokuba nguDeputy Minister we-Information leBroadcasting Services, eyiyo iminisitiri eqondisa yaluse amankampani okusakaza.⁹⁹ Sekusitsho ke ukuba uMinister wayesengumnikazi abuye abe ngumphathi lomlindi wendasitili yentatheli, kusethula kuye kalula amathuba okuhlambaza amandla aselawo, esengakhohlakala abuye ancintisane okungafanele lamanye amankampani.

Ngo-Mabasa 2016, iZimbabwe Parliament's Standing Rules and Orders Committee yavuma umklamo osalungiswa we-Assets Declaration Register uhlose ukuphoqa amalunga awePhalamende ndawonye lamalunga ekhabhinethi, ukuthi amemezele lokwazisa izimpahla lezingcebo zawo kulandelwa izimiselo zesisekelo iConstitution njalo kulandelwa izimiso eziqondisa umsebenzi wePhalamende oweHouse's Standing Rules and Orders.¹⁰⁰ Izimemezelo zihlanganiswe ogwalweni oluqinisa indlela zokuzipatha okulungileyo lokwethembeka kwamalunga ephalamende (IweCode of Conduct and Ethics for Members of Parliament).¹⁰¹ Kulandelwa iCode leRegister ngobubili bakho, yonke impahla enjengezindlu lamapulazi kumele ibikwe lokubika lokho kumele kuqambe i-adresi lapho impahla ime khona, umnyaka eyathengwa ngayo, isilinganiso umuntu alaso nxa leyompahla isabelwana labanye.¹⁰² Izimpahla eziphakamisekayo kumele zibhaliswe emthethweni, ezifana lezimota, lazo zibhaliswe zinjalo kumele zimenyezwe, ndawonye lolwazi oluchasisa ngamafitshane leyo mpahla, lapho ekhona, umnyaka wokuyithola kanyelentengo yayo.¹⁰³ Ezinye izingcebo ezinjengamatshe aligugu, imvunulo zococo ezinengomgingqo (ijuwelari) lemali zensimbi amakhoyini awedlula i-US\$25 000 kumele abikwe kanye leynye impahla ephakamisekayo elentengo eyedlula i-US\$15 000 kanye lezindlu zelifa osekulomnyaka umuntu ezabelwe. Ama-akhawunti awebhanga, amadipozithi, izimali zenzuzo kanye lezinye zokuzalisa ngezindlela ezehlukeneyo kanye lezikwelede lamacala edlula i-US\$25 000 kumele abikwe.¹⁰⁴ UPart V we-Annex we-Assets Declaration Register uqondisa ukuba ingqe yisiphi isipho, uncendo, usizo lwamahala kumbe olwentengo ephansi engasi yezitolo ngenxa yokwelekelelwa ngabanye ithengwe kwabanye, ezinhlanganisweni, emankampanini, ezihlanganisweni ezizimeleyo, emankampanini elizwe, kumbe iminyango kazulu yamanye amazwe, elentengo eyedlula i-US\$4 500, kumele kubikwe, kubhalwe phansi lapho okusuke khona kuyisipho, kuluncedo loba kulusizo. Kuyikudelela iPhalamende lobugebengu ukubika amanga lokubhala ulwazi olungaqondanga kumbe olungaphelelanga nxa umuntu ebika.¹⁰⁵

Izikhathi ezinengi ubunengi bengcebo yabasebenzi bakazulu bubonakala ngesikhathi sokudatshulwa umtshado, sebedivosa kabuhlungu omnkabo kuyibo asebeyivumbulula kumbe nxa sekulecala elithile asebelidalile, kumbe mhla bekloloda nje bezitshaya izifuba bebonakalisa ukuba banothe okungakanani. Ngo2010, ilizwe lethuka imhlolo ngenkathi umfazi kaDoctor Ignatius Chombo, uMinister of Local Government, Public Works and Urban Development, emmangalela indonda ukuba ilamasitendi ezindlu lawamabhizimusi edlula ikhulu elizweni lonke leZimbabwe, amankampani awenzuzo alitshumi lambili, amahekitha edlula inkulungwane ezintathu awamapulazi, izimota ezilitshumi lanhlano, izimpahla zenhlobo eSouth Africa,

⁹⁹ Guma, L. (2011), 'Zimbabwe: Debate in parliament exposes broadcasting authority', available at <https://allafrica.com/stories/201112150186.html> [accessed on 27 November 2020].

¹⁰⁰ Gumbo, L. (2016), 'MPs to declare assets', available at <https://www.herald.co.zw/mps-to-declare-assets/> [accessed on 25 December 2020].

¹⁰¹ See http://www.veritaszim.net/sites/veritas_d/files/Code%20of%20Conduct%20and%20Ethics%20for%20Members%20of%20Parliament.pdf.

¹⁰² Ibid.

¹⁰³ Ibid, see Part I of Annex 1.

¹⁰⁴ Ibid, see Part IV of Annex 1.

¹⁰⁵ Ibid, see Annexes 1 and 2.

amamayini, amapulazi lamaloji awamasafari elizweni leZimbabwe.¹⁰⁶ UMinister wayengaholanga imali enengi ngama1980 engakatholi iskhundla sikazulu, okuyisibonelo esokuthi abasebenzi bakazulu elizwe leZimbabwe baxhaphaza ukungabiki izimpahla ngokuqhubeka bephanga isikhwama sikazulu kungelamuntu obabopha abathonisise.

Esinye isikhulu sabasebenzi bakazulu u-Obert Mpofu, ngesimanga ongumnini wezinkulungwane zamahekitha omhlabaelizweni leZimbabwe, wathenga ibhanga ngemali eyedlula izigidi ezingamatshumi amabili amadola eMelika wasentshompoka eseqa ethenga buthumuthumu izindlu kuleli idolobha laleliya esesenguMphathintambo wama Mines. Sekugomeliwe ukuba ngesikhathi engumphathintambo kwakubuthwa mhlolo izingcebo ikakhulu eluhlwini lwendayimana.¹⁰⁷ Esekhitshiwe esikhundleni waphiwa inkithiko yemingcebo eyagoqela ukuvalwa kwebhanga yakhe ayeyithengile¹⁰⁸, okwadala imibuzo eminengi ngokubasemthethweni kwomnotho wakhe. Kodwa wayengeke athonisiswe ngoba kungazange kwasekuqaleni kube lombiko osemthethweni owawuveza ukunotha kwakhe.

Ezilandelayo yizibopho ezimayelana lokuphambana kwezifiso lemisebenzi kazulu:

- Imithetho yokuqatshwa lesikhathi sokusebenza sikaProsecutor General (uPG), onguye oyinhloko yeNational Prosecuting Authority (NPA), ilotshwe ngaphansi kukaSection 259 weConstitution yeZimbabwe. INational Prosecuting Authority Act [Chapter 7:20] kanye leNational Prosecuting Authority (Code of Ethics) Regulations (2015) ziphinda ziqondise ukuqatshwa, ukuziphatha, lezimiselo zemisebenzi lokuziphatha okuqondileyo okulungileyo okwamalunga eNPA. Abatshutshisi kumele bazihoxise nxa kuthethwa amacala awabantu ababaziyo kumbe babeke obala kwabanye ulwazi abalalo olungathoya ingqubo yalelo langa.
- AmaSection 106 and 196 aweSisekelo sombuso (iConstitution ye Zimbabwe) akhuphula ubuqotho, ukuthembeka kanye legunya ebasebenzini bakazulu.
- Eminye imithetho efana lePublic Entities Corporate Governance Act leZimbabwe Anti-Corruption Commission Act layo ikhuphula ukuziphatha qotho okwezigaba ezehlukeneyo zabasebenzi bakazulu.
- ICriminal Law (Codification and Reform) Act ikwenza kube licala ukufihla uhwebo oluvela kumpathi/ umqondisi kumbe isifiso sokuthengiselana.
- Umthetho wokukhethwa lokukhithwa kwabehluli ulotshiwe kuSisekelo sombuso (iConstitution ye Zimbabwe) lakuJudicial Service Act [Chapter 7:18]. IJudicial Service Commission iphoqa imithetho yokuqatsha, ukuziphatha lezimiso zokusebenza ezibekwe ogwalweni lweJudicial Service Regulations. IJudicial Service (Code of Ethics) Regulations isebenza ukuba yimithetho yokuziphatha kwabasebenzi abaphansi.

1.4.3 *Insilelo*

Loba imithetho yokusebenza lemigomo yakhona imihle ihlaba umxhwele, kulezinkinga ezimbalwa ezikhona:

- ↔ Akulangcazelo ecacayo ebalisa ukuba ukuphambana kwezifiso lomsebenzi kuyini kumbe indlela eqondileyo yokubika uthando lwento kubaphathi kumbe ukuphatha lokho kuphambana nxa sekwenzakele.
- ↔ Kawukho umthetho wokuziphatha wabasebenzi bakazulu loba kubaliswa ukuba ukhona olotshwayo. Lesi isimo sabonakala kalula ngabamangali ecaleni lika*Kasukuwerere vs.*

¹⁰⁶ Nehanda Radio (2010), 'Messy divorce exposes Minister Chombo's mega riches', available at <https://nehandaradio.com/2010/11/05/messy-divorce-exposes-minister-chombo%E2%80%99s-mega-riches/> [accessed on 27 November 2020].

¹⁰⁷ Cross, E. (2011), 'The greed and corruption of Obert Mpofu', available at <https://www.politicsweb.co.za/opinion/the-greed-and-corruption-of-obert-mpofu> [accessed on 27 November 2020].

¹⁰⁸ Ibid.

Mujaya Ors, lapho umthethwandaba wavuma ukuba kawukho umthetho wokuziphatha kwezisebenzi zikazulu olotshwe phansi. Kulesigaba kuphela uSection 174 weCriminal Law (Codification & Reform) Act, esibumba amacala ewofisi esithiwa yiCriminal Abuse of Office, kodwa laso lesi sibanzi nje. Kulesidingo semithetho eqonda nqo isigaba lesigaba ivela kule i-Act ezaqondisa abasebenzi bakazulu. Icala lika*Kasukuwerere vs. Mujaya Ors* HC 11252/18 lalo liyibeka obala le inkinga.¹⁰⁹

- ↔ AmaSection 34 lo37 awePublic Entities Corporate Governance Act [Chapter 10:31] awalotshwanga izibopho zokubika amanga.
- ↔ Akulazindlela ezipheleleyo ezomthetho lezokuphatha ukubika izenzo zokukhohlakala emnyango kazulu.
- ↔ Abasebenzi bogatsha lokwezokwelapha kweleZimbabwe bayavunyelwa ukuqhuba eyabo ibhizimusi ephazamisana lemisebenzi yabo yezibhedlela lamakilinika elizwe loba bengabaqatshwa bakahulumende.

1.5 Isivumelwano Sesitshiyagalo lunye (Article 9) – Ukuqoqa lokusebenzisa izimali zikazulu

1.5.1 Ukuhumutsha Isivumelwano

Isivumelwano (Article) 9 ese-UNCAC sigqela umhlobo wendlela yokuba amazwe wonke avuma ukubaphansi kwalesisibopho (iConvention) abumbe imithetho yokuqoqela uzulu lokuvimbela inkohlakalo lobugelekeqe, kanye lamaqhinga angalandelwa ukukhuphula ukukhanya legunya lokuphatha lokuqondisa izimali zikazulu.

Kungatshiwo ukuba isivumelwano lesi sizikile kabanzana yabuya yaba mfishane eminingwaneni. Iqala ngokwethula imigomo emvama okumele igcinwe ngesikhathi sokusebenzisa izindlela zokuqoqela uzulu, imigomo okufanele ukuba labo abasebenza ukuqoqa baholwe ngazo ngesikhathi besebenza. Kungakho ke kulemigomo le emithathu eqanjweyo:

- ukukhanya.
- ukuncintisana; kanye
- izimiso ezibanzi eziphatha zikhethe kuhle ingqe yibaphi ababhidayo, okutsho ukungabandlululi ekukhetheni.

Izinqumo sesibopho (iConvention) zifuna izinto zenziwe mgceke kuthathwe lezinqumo zokulondoloza ubuntu njalo abantu basebenze ngedlela eqotho ekuvikeleni ukukhohlakala ekuthengweni kwemphahla zikazulu. Ukuze lokho kwenzeke kufanele kugcwaliseke indingeko zika Article/Isivumelwano 9, wenhlanganiso yamazwe wonke, ethi kufanele kubhalwe ingqubo lendlela okungamiswa ngazo ubugelekeqe ekuthengweni kwemphahla zika zulu kanye lokusetshenziswa kwemali kazulu.¹¹⁰

Kubalulekile ku Sivumelwano (Article) 9 eyesibopho, langendlela, kufanele igoqele lapha umsebenzi uqala uze uyephela. Kufanelwe ihloliswe into/kumbe umsebenzi okufanele wenziwe. Kufanele kuhlelwe, kwenziwe umsebenzi, kukhethwe ongenza ngcono umsebenzi, kubhalwe izivumelwano zomsebenzi uze uthutshwe umsebenzi. Kungathathwa lawamanyathelo ubugelekeqe bungavikeleka. Okunye okumqoka yikuthi imithetho yokuthenga imphahla zikazulu izikhathi ezinengi iyasiseka isphetho kucina umsebenzi lezivumelwano kuphela lokhu kwaziwa yikuthi Macedonian law.¹¹¹

¹⁰⁹ Bona, <https://zimlil.org/zw/judgment/harare-high-court/2019/562>.

¹¹⁰ See https://www.unodc.org/documents/treaties/UNCAC/Publications/TechnicalGuide/09-84395_Ebook.pdf.

¹¹¹ Ibid.

Ungakaphiwa umsebenzi kulezigaba ezintantu eziqakathekileyo, esokuhluzisisa abazaphiwa umsebenzi, umsebenzi ngokwayo lokulandela ukuthi umsebenzi wenziwe kuhle. Lokho nxa kwenziwe kuhle lokho kuyenqabela ukukhohlakala kumbe ubugelekeqe. Ngakho ukuvikela lokho kuganga kuqakathekile lanxa ezinye izigaba zomsebenzi zingekho emthethweni wokuthi imisebenzi kazulu yokuthenga imphahla iphiwa njani.

1.5.2 Ukulandela izimiso zeSivumelwano

Kukhanya uluhlu lwenhlamvu zomthetho ogcwalisa izifiso zesivumelwano lesi uqondileyo lindlela yokusebenza kwayo iyazwisiseka. Ukuthenga imphahla kazulu kulawulwa nguYiSisekelo sombuso selizwe le Zimbabwe lomthetho okwaziwa ngokuthi yi *Public Procurement and Disposal of Public Assets Act [Chapter 22:23]*¹¹² njalo lezimiso eziku *Public Procurement and Disposal of Assets (General) Regulations (2018)*.¹¹³ Isigaba (Section) 195 esesisekelo sombuso iConstitution sithi sona “ amankampani lezinye inhlanganiso ezidinga imali kumele zenze izinto mgceke kube lokuncintisana ekusebenzeni kwabo. Inhlanganiso ekhokhela kulokhu i Procurement Regulatory Authority of Zimbabwe (PRAZ), eyadalwa ngomthetho kufanele iyenze lokhu okulandelayo:

- Ukulandelela indlela okuthengwa ngayo imphahla kazulu,
- Ukuhlolisisa ukuthi umthetho uyalandelwa,
- Iyeluleke njalo incedise inhlanganiso ezithengayo,
- Iphe indlela lemigoqo njalo igcine kuhle ulwazi kumadathabhesi.¹¹⁴

Ukusungulwa kwe Procurement Management Unit (PMU) ekhokhelwa ngomabhalane bemali kuyinto emqoka kakhulu, njengoba kubhaliwe emthethweni kusigaba 10 ese Public Finance Management Act. Njalo kufanele kube lamakomithi akhangela ukuthi imali ezakhitshwa ingakanani kulandelwa umthetho okusigaba 10 (2) we *Public Procurement Regulations*.

Ukuncintisana kungeyinye yezinto ezimqoka okufanele zikhangelwe, lokhu sikubona kusigaba 30 somthetho. Imibiko mayelana lemithetho lengqubo yokumema abathengi, labafisa ukuthenga, lokuhlolisisa ukuthi bafuna ukuthengani kulotshiwe kabanzi emthethweni kuzigaba 36–56 lo 18–34 kwalomthetho

Iqoqo lokwenza ngendlela yomthetho, lisungula umlandu wokuthi nxakulemhobholo kumbe kuliwa ngasese kwaziswe inkhokheli. Abathengi bangaxotshwa emncit Swaneni nxabengatholakala belecala lokungathembeki kanye lokukhohlakala.

Inhlanganiso ye Zimbabwe Anti-Corruption Commission, ingalandelela iphinde ihlolise indlela zokuthenga. Ngokunjanlo ihofisi ka Auditor General ilalo ilungelo lokuthi ibone ukuthi izinto zenziwa emthethweni lokuthi imali zikhangeliswe ukuthi kazitshaphazwa.

Isigaba 305 seSisekelo sombuso weZimbabwe lo sigaba 28 we Public Finance Management Act sithi konke okufiswa kumbe okucatshangwa ngemali kufanele kuqale ephalamende kuyehlolwa ukuthi kuqondile , kube sokuphiwa imvumo iphalamende ingakudinda. Ngomthetho zonke inhlangathi zika Hulumende kufanele, nyangazonke, kangemva kwenyanga ezine lamnyaka wonke zithumele uluhlu lengwalo zokuthi amabhuku azo ami kanjani kuhofisi ka Auditor General.

Isigaba 41 somthetho sithi kungumlandu wamankampani wonke kazulu ukuthi abe lindlela emqoka yoku khangela amabhuku, ngesikhathi esifitshane njalo mgceke kuphindwe amabhuku enkampani ahloliswe ngomabhalane lobomgcini ingcebo baleyo nhlanganiso. Uhlangothi luka Hulumende iPSC ingaletha abanye omabhalani labagcini ingcebo bangaphandle ukuthi

¹¹² See <https://zimlil.org/zw/legislation/act/2017/5>.

¹¹³ See http://veritaszim.net/sites/veritas_d/files/SI-5-2018ed.pdf.

¹¹⁴ See Sections. 5–7, Constitution of Zimbabwe.

bazohlola amabhuku. Njalo umthetho we National Archives ulawo umthetho wokugcina amabhuku wonke kaHulumende okwesikathi eside ukutshabalalisa amabhuku, kumbe ukuqamba amanga mayelana ngamabhuku emali kulicala elikhulu umuntu angaligwetshelwa.

1.5.3 Insilelo

Lanxa kulomthetho olamandla, wokuthenga imphahla elizweni usuphambaniseke kakhulu ngenxa yokukhohlakala okukhona elizweni nxa abantu bephiwa imisebenzi yokuthenga. Lokhu sikubona kulo umzekeliso okhanyayo:

Mhlaka 12 Nhlangua 2020, umphathintambo wezempilakahle uObadiah Moyo, wabotshwa wetheswa icala lokusebenzisa amandla akhe emsebenzini ngendlela engayisiyo. uMoyo labanye onqonqotshi be bogatsha lokulungiswa kwemithi, inkampani yelizwe i National Pharmaceutical Company (Nat Pharm) badinga amankapani atshiyeneyo ukuthi athenge imithi yelizwe eyayi zigidi zezigidi zamadola ekulwiseni isingci somkhuhlane weCovid 19. Eyinye I company okuthiwa yi Drax yathola 2 million yamadola eMelika imali yakhona yayithunyelwe kwelinye ilizwe okuthiwa yiHungary. Lokhu kwenza inhlanganiso yamapholisa womhlaba wonke yaqala uphenyo (iINTERPOL). Imisebenzi yokuthenga imphahla zelizwe kwakumele ibe yizigidi zamadola ayi 60 million.¹¹⁵

Isigaba 195 seSisekelo sombuso, sithi sona amankampani asebenza ngokwemali kufanele enze imisebenzi yabo “mgceke njalo kube lokuncintisana endleleni zokuthenga”

Umvuzo wokupha iDrax isivumelwano yi Nat Pharm, ugatsha luka Hulumende akwenziwanga kuhle ngendlela emisiwe. Isigaba 308 seSisekelo sombuso welizwe leZimbabwe sithi “ wonke umuntu obamba imali yelizwe kungumlandu wakhe ukuthi ayigcine kuhle njalo abone ukuthi imali yelizwe isebenza kuhle kulandelwa imithetho emisiweyo yelizwe. Uyaqhubeka umthetho uphinde uthi wona wonke umuntu ophiwe umlandu kumbe amandla wokukhangela imphahla kahulumende kungumsebenzi wakhe ukuthi abone ukuthi kayilahleki, kayifi, njalo kayephuki. Kodwa emsebenzini okwakufanelwe uyenziwe yiDrax kwaba lobutshapha obokhulu ngentengo zemali ezazikhwezwa mahlayana. Umphathintambo wacina evuma ukuthi kukhona okungaqondanga ngemva kokuba amaphephandaba esesakaze into ezinengi.¹¹⁶

Isigaba 31 se Public Procurement Act [Chapter 22:14] kulandelwa ingqubo zokuthenga, ithi kumele kuqale kusakazwe ngokomthetho kungaba liphephandaba lalapho okuzathengwa khona kumbe okuzasetshenzwa khona, kumbe kwezinye ingwalo ezifinyelelwa ngabantu abanengi umhlaba wonke jikelele. Kukhangelwa udaba lwe Drax, akula mbhalo kumbe iphephandaba elakwenzayo lokho kutshengisa ukuthi umthetho wephulwa njani mayelana lokuthenga imphahla ngendlela eqondileyo njalo emgceke. Isigaba 34 simayelana lokukhangelisisa amankampani leziphathamandla zawo ezenza ngokutholisa imphahla ukuthi ziyabe zingazake zibotshwe loba kuliphi ilizwe eminyakeni elitshumi edlule. Kodwa umuntu owayemele inkampani eyeDrax kweZimbabwe ngumuntu owake wabotshwa njalo asaselamanye amacala enkantolo lokho kwakumele kwenze I Nat pharm isole kakhulu.

Isigaba 4 se Statutory Instrument 171 somnyaka 2002 seProcurement Regulations¹¹⁷ ngumthetho oqondisa ukuthi nxa kulamankampani afisa ukusebenza lohulumende loba yiluphi uhlangothi nxa kumele benze umsebenzi ongasebenzisa imali engamadola edlula US\$D500 000 kumele kwenziwe umncintiswano wokuthi ngubani ozasebenzelana labo. Kodwa kucala le Drax kwakulemali enengi (izigidi ezingamatshumi ayisithupha awemali yeMelika) ephuzulu kwaleyo emiswe nguHulumende nxa kuthengiselwana. Kusenziwa lowu msebenzi kwavela sobala ukuthi kulokukhohlakala okwabakhona lobugelekeqe. Njalo ngephutha uMongameli welizwe laye

¹¹⁵ Mathuthu, M. (2020), 'Zimbabwe arrests health minister in Covid-19 procurement scandal', available at <https://www.zimlive.com/2020/06/19/zimbabwe-arrests-health-minister-in-covid-19-procurement-scandal/> [accessed on 27 November 2020].

¹¹⁶ Ibid.

¹¹⁷ See <https://www.law.co.zw/download/procurement-regulations-2002/>.

waphatheka kukho ngokuba yingxenywe yomcimbi wokukhipha ley mali elizweni.¹¹⁸ Udaba lolu luveza obala ukugxila kwenkohlakalo lobugelekeqe kubathungameli bezombusazwe lakuhulumende njengoba labantwana bakaMongameli batholakala belengxenywe besebenzelana lenkampani engcolileyo.

Kunhlangula loNtulikazi ngomyaka ka 2020, iNational Pharmaceutical Company (Nat Pharm) yabona amalunga lezisebenzi zayo zibotshwa yinhlanganiso ye Zimbabwe Anti-Corruption Commission (ZACC) besetheswa icala lokungaziphathi kuhle emsebenzini mayelana lomsebenzi abawupha iDrax. Ngohlangula abaphathi abakhulu be Nat Pharm abathathu bamiswa phambili kwenkantolo besetheswa icala lokusebenzelana le Drax International LLC ukuthi ithenge imithi yelizwe kungalandelwanga umthetho. Abathathu laba sebamiswa phambi koMthethwandaba kaMantshi esigodlweni besetheswa amacala okuganga lokungaziphathi kuhle emsebenzini.¹¹⁹

Udubo olukhona elizweni yikuthi indlela zokunza imisebenzi kahulumunde ilokhe isenziwa ngendlela zakudala ezingasebenzisi ubulembu nxa kuphiwa abantu imisebenzi yelizwe. Lolulwazi kumele lubesebulenjini abantu bazi ukuthi abaphiwe imisebenzi kahulumende ngobani njalo lokhu kuzehlisa izinga lokuganga nxa izinto zisenziwa ebulenjini kuyehlisa izinga lobugelekeqe.

1.6 Isivumelwano Satshumi (Article 10) – Izindlela zokubikela uzulu

1.6.1 Ukuhumutsha Isivumelwano

Isivumelwano (Article) 10 esesibopho seUNCAC ithi inhlanganiso eziphathekayo kufanele zithathe izinqumo ezifeza ukwenza izinto mgceke ukuqhubeni imisebenzi yabo. Umhlangano ukhuthaze zonke izizwe ukuthi zibe lomthetho owazisa umphakathi ngendlela zokuthatha izinqumo mayelana lento zomphakathi langendlela ezihlolwa ngayo. Njalo kufane baphe abantu ulwazi ngengozi ezingehlela umphakathi ngokukhohlakala kwabantu ekuqhubeni imisebenzi yabo.

1.6.2 Ukulandela izimiso zeSivumelwano

Kusigabasamatshumi ayisithupha lambili phakathi kweSisekelo sombuso selizwe leZimbabwe, wonke umuntu ulelungelo lokuthola ulwazi oluvela kumihlangano eyenziwa emphakathini. Lokhu kwenzelwa umpakathi ukuthi uthakazelele ukwazi ukuthi kwenzekani ngemphahla zomphakathi. Ngephutha, uzulu kancediswa ngumthetho ukuze afeze lelilungelo.

Ubunzima busukela ekuphathekeni kwamabutho, lezinye inhlanganiso zomthetho ekuncindezeleni onozindaba ababhala ngokukhohlakala kanye lobugelekeqe obukhona elizweni. Lokhu kuvele mgceke ngemva kokubotshwa kuka nozindaba olodumo umn. Hopewell Chinono emnyakeni odlule (2020). Unozindaba lo wavalelwa esetheswa icala ngemva kokubhala ngokukhohlakala lobugelekeqe bukamphathintambo wezempilakahle uDr Obadiah Moyo. UMoyo wanikeza abangane bakhe umsebenzi welizwe ukuthi bathenge imphahla ephathelane lempilakahle yabantu ukuze bavikeleke emkhuhlaneni we COVID 19. Umphathintambo labangane bakhe baphuca ilizwe izigidi zamadola eMelika angaba ngamatshumi ayisithupha ezigidi . Ngemva kokuveza lokhu umphathintambo uMoyo waxotshwa, kwathi umlobi wavalelwa insuku ezingamatshumi amane lanhlanu esetheswa icala lokuthi utshotshozela umphakathi ukuthi uhlamukele uHulumende welizwe.

UHulumende usezame kanengi ukuthulisa onozindaba abafana loChin'no abaveza ukukhohlakala ngokubavalela entolongweni, langokufaka imithetho ephathelane lokusakaza

¹¹⁸ Newzimbabwe.com (2020), 'Zimbabwe: Mnangagwa links to Drax international emerge, president begged for \$60m from dodgy firm', available at <https://allafrica.com/stories/202006160462.html> [accessed on 27 November 2020].

¹¹⁹ Madzianike, N. (2020), 'NatPharm bosses arrested, appear in court', available at <https://www.herald.co.zw/natpharm-bosses-arrested-appear-in-court/> [accessed on 27 November 2020].

ngamafoni. Leli nyathelo lika Hulumende lizondise inhlanganiso ye Southern Africa Litigation Centre (iSALC). Linhlanganiso isole kabanzi uHulumende, yathi inyathelo alithethayo liphikisana leSisekelo sombuso futhi kaliquondanga. Njalo okwenziwa nguHulumende kakuhambisani leminywe imithetho egoqela amalungelo abantu bonke jikelele njengoba kulotshiwe kuSivumelwano samalungelo Oluntu (iUniversal Declaration of Human Rights).

Omunye umgoqo wokuncindezela onozindaba usumisiwe ukuthi usebenze njengomthetho ovumakalayo. Lowo mgoqo kuthiwa yi Cyber Security and Data protection Act. Ngomnyaka ka 2019 uHulumende wesula umgoqo okwakuthiwa yi Access to information and Protection of Privacy Act. Ngemva kokwesula lowu mthetho baqhubeka ngomthetho wabo omutsha ohambisana leSisekelo sombuso. Lumthetho uthi umuntu osebenzisa izigxingi zekhompiyutha ukuthumela imibiko kumbe ukusakaza imibiko etshotshozela udlame emphakathini uzatholakala elecala elingamenza avalelwe entolongweni kumbe abhadale imali kuHulumende. Kodwa abanye bathe lumthetho kawuqondanga ngesizatho sokuthi uncindezela umphakathi, ukuthi ukhulume imibono yayo ikhululekile. Lokhu kuzehlisa lezinga lokuthi izinto zihlolisiswe mgceke ikakhulu kungatsha ezitshiyeneyo zikaHulumende.

Iziphathamandla sezazama imizamo eminengi yokuchupha imibiko phakathi kwabantu lokuthi bahlale ukuthi umphakathi wenzani ebulenjini usebenzisa izigxingi zama khompiyutha. Lokhu kuhlolisisa lokucutshwa komphakathi zinhlanganiso zabacuphi akuqondanga ngoba kutha umphakathi amalungelo awo. Kulengozi eyokuthi imithetho engaqondanga ingasetshenziswa ngabezombusazwe njengengxiwo yokulwisana lalabo abelembono ekhanya iphikisana loHulumende. Phezulu kwalokho akula mthetho okhuluma mhlawumbe ovumelana lalakho njalo akula mthetho ovikela abathengisi abasakaza imibiko ukuthi bazise umphakathi.¹²⁰ Abachuphi abogatsa lebuthe bengenelisa ukuthapha ulwazi ngokulandelela langokunqamekela imibhalo eyabe isebenzise omakhalaekhukwini. Umthetho obona ngokusakazwa kwemibiko (Communication Act) uyavumela ugatsha lwezephoso lokuhanjiswa kombiko ukuthi lunqamekele lokugola imibiko nsitha. Lokhu kuyingozi ngoba kuyikuncindezela amalungelo abantu njengoba kungela ndlela eyokuthi abemithehwardaba bengenelisa okwenqabela ukutshaphazwa komthetho omayelana lokuhanjiswa kwemibiko. Umthetho lo kawula migoqo enganqabela ukuhlukuluzwa kwabasikibebunda abayabe beveze imibiko enganceda umphakathi..

Nanxanga uHulumende eseqalise ukusebenzisa indlela zeimitshina yamakhomphutha ezifana laleyo eyaziwa ngokuthi ZimConnect portal,¹²¹ indlela le ayikasebenzi kuhle ngenxa yokuthi imitshina le ihlala ifile. Nokunjalo ayisizonke inhlanganiso ezisebenza nozulu ezenelisa ukugcizelela imibiko yomsebenzi wazo kumagagasi lasebulenjini.

Ukuchwayisisa okwenziwe yinhlanganiso ye Transparency International Zimbabwe ngomyaka odlule (2020)¹²² yahlolisisa ukukhohlakala okukhona kugatsha lwezempilakahle lwafumana ukuthi labo abaphathekayo bathi bona benza izinto ezinengi ezingelancedo. Abanye babo abagoqela I itshumi lanye ekhulwini bathi bona bahlezi bephiwa ulwazi olungaqondanga ngama dokotela. Ngokuchwayisisa kwe TIZ bayavuma ukuthi zinengi izinto ezingenziwa kuhle kugatsha lwezempilakahle udubo lwabo yikuthi abala amandla lendlela abanga qondisa ngazo leziziphambeko.

¹²⁰ Mahomed, F. (2020), 'Creeping clampdown on dissent: Beware Zimbabwe's cybersecurity bill', available at <https://www.dailymaverick.co.za/article/2020-09-24-creeping-clampdown-on-dissent-beware-zimbabwes-cybersecurity-bill/> [accessed on 28 November 2020].

¹²¹ Bona <https://zimeservices.pfms.gov.zw/iri/portal/anonymous>

¹²² Transparency International- Zimbabwe (2020), 'Corruption risk Assessment in Management & Distribution of Social Protection Initiatives & Humanitarian Aid in Zimbabwe', available at <https://www.tizim.org/2020/03/corruption-risks-in-the-management-and-distribution-of-social-protection-initiative-and-humanitarian-aid-in-zimbabwe/> [accessed on 28 November 2020].

1.6.3 Ukwenza ngendlela eqondileyo/ kumbe ukwenza kuhle

Mhlaka 8 Mpandula ngomnyaka ka 2020 ugatsha luka hulumende olwe ZACC lwasungula uhlelo lokuthi abasikibebunda abalolwazi ngobugelekeqe langokukhohlakala bangabazisa ngedlela oyokuceba kusetshenziswa omakhalaekhukwini.¹²³ Lokhu kuyikwenza kuhle sibili.

1.6.4 Insilelo

Uhulumende uhleli ezama ngazo zonke izikhathi ukuvimbela insendlu zobugelekeqe kumbe bonke abantu abazama imizamo yokuveza ukukhohlakala lobugwelegwele. Lababantu bazithola sebevalelwe entolongweni njalo uhulumende usefake indlela ezinengi ezinqabela abantu ukuba basebenzise ubululembu bencingo ngendlela ezitshiyeneyo.

1.7 Isivumelwano Satshumi namunye (Article 11) - Izinqumo eziphathelane logatsha lwezemithetho labatshutshisi.

1.7.1 Ukuhumutsha Isivumelwano

Lumbhalo ukhuthaza inkosi zenkantolo ukuthi zibe lendlela eziqinileyo ekulwiseni ukukhohlakala lobugelekeqe. Umhlangano omkhulu wenkosi zeNkantolo wavumela ukuthi zonke inkantolo zibelindlela eziqondileyo zokusebenza ukuze lazo zihlonipheke zingabingabantu makhaza. Lokhu kwenzelwa ukuthi inkosi zenkantolo zingafumbathiswa. Lezi ndlela zokusebenza kwabo zigxilile kweminye imithetho. Kanye lomhlangano wenkosi zenkantolo yakubona kuyinto eqakathekileyo njalo efanele ukuthi ihlale ihlolwa ngazo zonke izikhathi. Phezu kwalokho kule milayo eyokuziphatha kwamalunga abezemithethwandaba ethiwa yiJudicial Service (Code of Ethics) Regulation, 2012.¹²⁴

1.7.2 Ukulandela izimiso zeSivumelwano

ISisekelo sombuso selizwe leZimbabwe siphila ugatsha lwezomthetho amandla wokuba luzimele lodwa ekufezeni imisebenzi yalo, kungela kungenela okuvelela kubabusi kanye lezinye inhlanganiso. Kufanele baqhube umsebenzi ngendlela eqondileyo njalo bengela kwesaba. Lolugatsha lozomthetho ukuze luqhube umsebenzi walo kuhle kumele lungadlalani lamabandla ezombangazwe. Lolu gatsha kufanele luqhubeke ngemisebenzi emihle ukuze umphakathi ubathembe njalo ukholwe kubo.¹²⁵

Isiqoqo sesine (Section 4) ku ndlela yokuziphatha emsebenzini. "ithi zonke izisebenzi zogatsha lezomthetho ngamunye kumbe beliqembu kufanele baphakamise imithetho njalo batshisekele ukwenza okuqondileyo kulandelwa izimiso zenhlanganiso yabo ezigoqela lokhu okulandelayo.

- (a) ukuzimela ungumuntu lokuzimela kwenhlanganiso
- (b) ukuhlonipheka ngesithunzi
- (c) ukubekeka, ngesithunzi sakho langendlela oziphatha ngayo.
- (d) ukuphathwa ngendlela efanayo phambi kwentalo zonke.
- (e) ukuhlonipha indlela okuqutshwa ngayo umsebenzi kanye lezinqumo ezithathwayo.
- (f) Ubuciko lobuqotho.

Inhlanganiso yezomthetho i JSC, iqhuba imisebenzi yayo ilandela izimiso ezigoqela, ubuciko lobunono, ukuzimela, lokuba msulwa. Ngokunjalo isigaba 164 siyavimbela amalunga ale inhlanganiso ukuthi baphatheke kwezombusazwe phecelezi okwaziwa ngokuthi yiPolitiki. Njalo akufanelanga ukuthi batholakale bekhankasa becelela amaqembu ezombangazwe imali, futhi

¹²³ Popovich, A. (2020), 'Zimbabwe Anti-Corruption Commission creates whistleblowing app', available at <https://whistleblowersblog.org/2020/09/articles/global-whistleblowers/zimbabwe-anti-corruption-commission-creates-whistleblowing-app/> [accessed on 28 November 2020].

¹²⁴ http://www.archive.kubatana.net/html/archive/legisl/120220judreg.asp?sector=LEGAL&year=0&range_start=1.

¹²⁵ http://www.archive.kubatana.net/html/archive/legisl/120220judreg.asp?sector=LEGAL&year=0&range_start=1.

akwenzi ukuthi babezingxenyi zalezi inhlanganiselo.

Kusigaba 198 kuSisekelo sombuso selizwe leZimbabwe ku Act 20 yomnyaka ka 2013 ithi yona, kumele wonke umuntu osebenzela uhulumemende kufanele aveze mgceke inotho yonke alayo ngaphambili kokuphiwa isikhundla emankampanini elizwe kumbe amankampanini kazulu lakunhlangothi ezitshiyeneyo zika Hulumende.

1.7.3 Insilelo

Isinqumo esathathwayo ngaphambili kwesisekelo sombuso kasika gcwaliseki ngoba inengi labantu kalikavezi mgceke inotho yabo abalayo emphakathini. Abantu bakholelwa ukuthi inengi labantu abasebenza kugatsha lwezemithethwandaba labanye abasebenza umsebenzi owokubuyisana balobudlelwano labamabandla epolitiki kunzimna ukuba themba.¹²⁶

Ngomnyaka 2007/8, ibhanga elikhulu lelizwe laba lohlelo lokuncedisa abalimi. Ngaleso sikhathi kwakulokuntshintshwa komhlabathi kusukela kusikhathi sokuhluquluzwa umhlabathi phansi kohlelo lwe Fast Track Land Reform Programme (FTLRP).¹²⁷ Okumqoka okwenzekalayo yikuthi inkosi zenkantolo lazo zaphiwa uncendo kuloluhlelo olwe Farm Mechanisation Scheme. Lokho kwaletha insolo enkulu ngesimo senkosi zenkantolo mayelana lomsebenzi wabo. Umzekeliso ophilayo siwubona kumuyi owayeyindunda zenkosi zenkantolo umnumznane Godfrey Chidyausiku laye waphatheka kuloluhlelo lapho athola khona amakhulu amathathu ezinkulungwane lengxenyi zama-dola emelika ayi USD381 946. Ngesikhathi esifa ngomnyaka ka 2017 ufe elokhe engakayibhadali limali. Abehluli boMthethwandaba Omkhulu labo baphatheka kuloluhlelo baboleka izimali izinesilinganiselo esiphakathi kwezinkulungwane ezingamatshumi amathathu lengxenyi (US\$33,695) kusiya ku khululezinkulungwane lengxenyi (US\$107848). Imali lezi lazo azikabhadalwa. Nxa lokhu sikukhangelisisa ngeso lokhozi kuyavela sobala ukuthi inkosi zenkantolo kazisazimelanga zodwa okuyikho okufunwa ngumthetho.

Owake waba yinkosi ye Nkantolo u Justice Benjamin Paradza wabotshwa wagwetshwa esetheswa icala lokukhohlakala lobu gelekeqe. Kodwa inhlanganiselo eyaziwa ngokuthi yi International Committee of Jurists (ICJ) yakuveza obala ukuthi lumnumznana ubotshelwe into engekho ngoba wayedume ngokuthatha isinqumo ezazingahambisani lababusi.¹²⁸

↔ Kwelinye icala elalithethwa ngumunye wenkosi zenkantolo, u Justice Majuru uyakubeka obala ukuthi sekulemphehlane ezingenela emsebenzini yabo. Lokhu kuphindwe kwavezwa yi African Commission on Human and Peoples' Rights. U Majuru wake wabhalela umphathi ntabo umnumznana Patrick Chinamasa emtshela ngodaba lwe nkampani yamaphephandaba IANZ eyayidume kakhulu ngokuchothoza uHulumende. uMajuru wabizwa ngu Enoch Kamushinda onakanelwa ukuthi ulilunga labacuphi ababethunywe kuye ukuthi bamtshele ukuthi engathatha isinqumo esivumelana loHulumende uzakuphiwa ipulazi elilento yonke esabelweni se Mashonaland West.

↔ Mhlaka 2 Mpandula 2020 iqula lamagqwetha labhikisha lavukela uhulumende lathi kufanele enze izinto ngendlela eqondileyo njalo alandele isisekelo sombuso. Ngesikhathi besenza lokho bethesa uhulumende icala lokungenela phakathi kwemisebenzi yenkantolo ngemva kokubana uhulumende ancitshe unoZindaba odumileyo uChinono *ibail*. Phezu kwalokho uhulumende waqhubeka njalo wancintsha inkhokheli yelinye ibandla lezombusazwe uJacob Ngarivhume. Asola kakhulu amagqwetha bathi okwenzekayo kakuhambisani lombuso

¹²⁶ Magaisa, A. (2020), 'BSR Exclusive: Beneficiaries of the RBZ Farm Mechanisation Scheme', available at <https://www.bigsr.co.uk/single-post/2020/07/18/BSR-EXCLUSIVE-Beneficiaries-of-the-RBZ-Farm-Mechanisation-Scheme> [accessed on 28 November 2020].

¹²⁷ Ibid.

¹²⁸ International Commission of Jurists (2003), 'High Court judge arrested in Zimbabwe', available at <https://www.icj.org/high-court-judge-arrested-in-zimbabwe/> [accessed on 28 November 2020].

olandela izimiso zeSisekelo sombuso (iConstitutionalism)¹²⁹ kodwa nje kufeza intando yababusi. UNgarivhume ulilunga lenhlanganiso eyozombangazwe njalo ngomunye osehlukuluzwe kakhulu ngoba yena ulwisa inkohlakalo lobugelekeqe kweleZimbabwe

- ↔ Mhlaka 29 Zibandlela 2019, uHaru Mutasa unozindaba osebenzela i Aljazeera News Media wathi yena amagqwetha ase Zimbabwe bavukela uhulumende becela ukuthi angangeneli emsebenzini yenkantolo. Lokhu babekutsho besesaba ukuthi inhlanganiso zamabutho, labacuphi kanye lezinye ezombusazwe sezixokozela kakhulu emithethwandaba, okwadala imizwa emphakathini ukuthi inkantolo kazisazimelanga zodwa. Ngokungenela kwabezombusazwe, amagqwetha bakhonona besithi ugatsha lwezemithetho solungani luthunjwe ngabantu abafuna ukugcwalisa izifiso zabo besebenzisa abehuli.¹³⁰
- ↔ Ngaphandle kokuthi izisebenzi zenkantolo sezitholakale kanengi ziphatheka emsebenzini yokukhohlakala kukhanya futhi sezidlelana labePolitiki. Lokhu sikubona embhalweni ka Alex Magaisa wokuveza ubugelekeqe bemphahla zokulima lemali engabuyiselwanga, kanye lemali yokwakha izindlu. Udaba lwe VIP Housing Scandal oluka 1995/9 lwethesa abanye abehluli umlandu wokungabiseli izimali ababezibolekile.

1.8 Isivumelwano Satshumi nambili (Article 12) – Umnyango wenhlanganiso ezizimeleyo

1.8.1 Ukuhumutsha Isivumelwano

Isivumelwano (Article) 12 senhlanganiso yamazwe wonke jikelele i United Nations yabalomhlangano wokulwisa inkohlakalo lobugelekeqe iqinisa ukuba izizwe zethule indlela ezinengi ezitshiyeneyo, lamanyathelo okufanelwe athathwe ukuze kulwisane lokukhohlakala kulezinhlanganiso. Lumbhalo uthi kumele kube lomthetho oqondisa lezinhlangotho kuwo wonke amazwe. Lokhu kumele kwenziwe ukuze kubonakale ukuthi lawo mankampani enza izinto ngokusemthethweni njalo akula ephikisana lomthetho. Lomhlangano uyakhuthaza kakhulu ukuthi kube lokuthembeka, lokusebenza kuhle, lokuwelelana lezinye ingatsha zikahulumende lapho ezingadlalelana khona. Njalo kuqakathekile ukuthi kube lemithetho ezaqinisa indlela okusetshenzwa ngayo ukuze kulwisa ukukhohlakala bungabi khona lakancane.

Isivumelwano 12 siyaqhubeka sisithi nxa wake wasebenzela uHulumende watshiya wayasebenzela inkampani ezimele yodwa kumele utsho isizatho sakho esikuletha lapha

Isivumelwano sithi nxa kulendlela ebonakalayo yokulwisa ukukhohlakala kuqakathekile ukuthi abantu bathathe inyathelo lokuvikela ukukhohlakala kulandelwa imithetho yelizwe njalo amankampani abone ukuthi amabhuku abo mahle njalo imali isetshenziswe kuhle. Kufanele lezi ziqhatshe abahlola amabhuku ngokwezemali (auditors). Njalo akumelanga amankampani alahle kumbe atshise amabhuku akhuluma ngokwemali isikhathi singakafiki ngoba nxa kungenzeka lokhu kungadala ukuthi abantu babotshwe.

Kunhlelo zokuvimba ubugelekeqe, Isivumelwano Satshumi nambili (Article 12), Isibopho silombono okuthaza ukuthi amazwe angamalunga ukuthi amise imithetho emayelana lokungcinwa kwembali ekomba ukuthi imali zasetshenziswa njani. Ukugcinwa kwembali emayelana lokusetshenziswa kwemali iqakathekile ukuze kube mgceke phezu kwenhlelo zokusebenzisa leyomali, njalo kubelula ukuzohlolisisa amabhuku ezemali. Umthetho lo ufuze wenqabele ukukhekheleza lokutshaphazwa kwenhlelo zemali. Umthetho uvimba ukuphunywisa

¹²⁹ Chigumadzi, P. (2020), 'In Zimbabwe, two political prisoners are a symbol of a repressive state', available at <https://www.washingtonpost.com/opinions/2020/08/18/zimbabwe-two-political-prisoners-are-symbol-repressive-state/> [accessed on 28 November 2020].

¹³⁰ Mutasa, H. (2019), 'Zimbabwe lawyers demand independent judiciary to try protesters', available at <https://www.aljazeera.com/videos/2019/1/29/zimbabwe-lawyers-demand-independent-judiciary-to-try-protesters>.

kwemali mahlayana entweni ezingekhoyo. Kulicala ukutshisa loba ukutshabalalisa ngamabomo ingwalo ezimayelana ngezemali isikhathi esamiswa ngumthetho singakafiki. Amazwe kufuze enqabele njalo ukuthi izisebenzi zikhazulu zingahlanganeli lemikhuba enelisa ukuthi babenenzuzo enjengesingxephezelo esivela kumali zemithelo kumbe ukuthi bathole usizo olungafanelanga okungabalicala phansi kweSivumelwano Satshumi nanhlanu (Article 15) laphansi kweSivumelwano Satshumi nasithupha (Article 16).

1.8.2 Ukulandela izimiso zeSivumelwano

Ilizwe leZimbabwe selathatha inyathelo lokuvikela ubugelekeqe kumankampani azimele woda lawo manyathelo agoqela:

- ↔ I *Public Entities Corporate Governance Act* isungule i *National Code on Corporate Governance*¹³¹, ekhuthaza ukulandelwa komthetho okuzaphakamisa isithunzi samankampani wonke, njalo ilandele izeluleko zikaHulumende. Lowu mthetho ugoqela zonke inhlanganiso zikahulumende lamankampani azimele wodwa.
- ↔ Inhlanganiso ye*Zimbabwe Anti-Corruption Commission* isebenza okwesokhozi ikhangela ukuthi akula kukhohlakala okwenzekayo emankampanini kahulumende lazimele wodwa.
- ↔ Uhlangothi luka Hulumende lwe*Companies Registry registers and associations in accordance with the Companies and Other Business Entities Act*. Umsebenzi walo yikubona ukuthi zonke inhlanganiso zilamaphepha aqondile. Kodwa uhulumende usebenzela ukuthi lokhu kubhaliswa kwamankampani kwenziwe ebulenjini. Njalo kulicala ukusebenzisa amaphepha angaqondanga nxa ubhalisa inkampani.
- ↔ Isahluko sesine (4) se *National Code on Corporate Governance* sikhuthaza ukuthi kufanele kubelindlela ezilandelwa ngamankampani azimele wodwa. Kumele kube lokuhlolisa amabhuku ukuze kubonakale njalo kuvikelwe ukukhohlakala okungaba khona emankampanini.
- ↔ Kusigaba 255–260 kumbhalo ofanayo amankampani ayakhuthazwa ukuthi avumele abasikibebunda, njalo kuqathekile ukuthi inkampani ibavikele ukuze kube lokuthembana. Umlandu usemankampanini azimele wodwa ukuthi basebenzelane labasikibebunda kodwa ngephutha zinlutshwane kakhulu inhlanganiso ezikwenzayo lokho.
- ↔ I *Companies Act* ithi yona kufanele amabhuku abemahle njalo abahlola amabhuku babezinhlanganiso ezisemthethweni elizweni. Isigaba 140–155 sikhuthaza ukuthi amabhuku ahlale eqondile njalo ebekwe kuhle ukuze owafunayo awaphiwe loba kunini, amankampani kumele alandele izinqumo ze *International Financial Reporting Standards, as approved by the Public Accountants and Auditors Board*.
- ↔ Indlela zokusebenza amabhuku lokuwahlolisisa kwenziwa yiPublic Accountants and Auditors Act and the Chartered Accountants Act.
- ↔ Ngomnyaka Ka2019 kumiswe umthetho omutsha wokukhangela amankampani owaziwa ngokuthi Companies and Other Business Entities Act. Okumqoka kulo umthetho yikuthi wonke amankampani kumele abhalise bafakwe ezigxingini zamakhompiyutha kanye lebulenjini.¹³²

¹³¹ See http://www.veritaszim.net/sites/veritas_d/files/PUBLIC%20ENTITIES%20CORPORATE%20GOVERNANCE%20ACT_0.pdf.

¹³² See <https://zimlil.org/zw/judgment/files/harare-high-court/2020/405/2020-zwhhc-405.pdf>.

↔ *International Financial Reporting Standard*, iyenqabela abantu abathatha imali emankampanini ukuthi babhale amanga emabhukwini belenhloso yokutshontsha kumbe ukwenza ubugelekeqe. Lokhu sikubona kucala lika of *Robin Vela vs. the Auditor General and BDO Zimbabwe Chartered Accounts*. Kuhloliswa amabhuku awe National Social Security Authority (NSSA) ngesikhathi esigoqela kusukela 1 Zibandlela 2015 kusiya ku 28 Nhlolanja 2018 okwathiwa kawakhangelwe njalo ebesevalwa.¹³³

Kodwa umthetho awukuvumeli lokho ikakhulu ukufumbathiswa kumbe ukukhipha imali zabantu ezingenayo.

Ukuchwayisisa okwenziwe yi TIZ (2020) bekhangelwa ugatsha lwezempilakahle kugwalo *Corruption Risk Assessment in Health Sector* kuveze ubugelekeqe obusezibhedlela obubisela inqubekela phambili yezibhedlela emuva kokuba ingcintshi ezikuzibhedlela lezi ziyaganga ngemitshina okufanele isize uzulu kodwa isiza abangane babo kuphela lokhu kuvele obala esibhedlela seChitungwiza.¹³⁴

Omunye umzekeliso ngowenkampani enkulu eyenza imithi. I TIZ ekuhlolisiseni kwayo inanzelele ukuthi ukweseleka kwamaphilisi elizweni kwenza amankampani aphaatheke ekukhohlakaleni besebethengisa imithi ngentengo ephuzulu kakhulu kulaleyo eyafakwa nguhulumende.

1.9 Isivumelwano Satshumi lantathu (Article 13) – Ukusebenzelana lozulu.

1.9.1 Ukuhumutsha Isivumelwano

Isivumelwano (Article) 13 yomhlangano omkhulu wamazwe wonke jikelele ekulwiseni lobugelekeqe ithi kuqakathekile ukuthi inhlanganiso ezingayisizo zika Hulumende kufanele zilwisane lokukhohlakala kanye lobugelekeqe. Inkuthazo le ibophela ukuthi isizwe sinye ngasinye esiphansi kwesivumelwano seUNCAC kufuze iphatheke kumsebenzi wokukhuthaza izizalwane lamaqembu lezinye inhlanganiso ikakhulu inhlanganiso zikazulu ukwenzela ukuthi ziphathise lazo kumsebenzi wokuvimba ukumemetheka kobugeleke lokuhaza ulwazi phezu kodaba lolu. Phezu kwako, kule Sivumelwano samatshumi ayisithupha lantathu esikhuthat ukuvulwa kwemikhandlo yokuthi inhlanganiso zikazulu zibelengxenywe kumisebenzi yokugcwaliswa kweziloyiso zesisekelo sokulwisa ubugelekeqe.

Kuqakathekile ukuthi inhlanganiso ezingasizo zikahulumnde zingene kunkundla yamazwe avumayo ukuba phansi kwesibopho esokulwisana lobugelekeqe (iConference of the States Parties to the UNCAC (COSP)). Inhlanganiso ezaphiwa imvumo yokwabelana imbiko lohlandla lwenkundla eyamazwe wonke olubona ngothuthukiswa komnotho lekuhlalakahle kazulu (ECOSOC) yizo zodwa eziphiwa amathuba okungena imihlangano emikhulu khanye lamazwe avumayo ukuba phansi besivumelwano. Inhlanganiso ezingaphiwanga imvumo zingacela imvumo yokulandela inhelo zomhlangano kodwa zingakhulumi ngokuloba ugwadlana olufitshane luqondiswe kumbuthano oweCOSP lakuUNCAC Implementation Review Group. Isicelo esinje sibaphakathi kwengwalo eziqakathekileyo ezomuhlangano. Ingwalo lezi ziyagcizelelwa ebulenjini obubukisa inhlelo zomhlangano njalo zingabelwa amazwe alungele ukungena lumhlangano.

Ngesikhathi sokuxoxisana, zonke inhlanganiso ezabhalisayo kulolu hlelo zilalo ilulungelo lokukhuluma kanye kodwa muva kokubana amazwe wonke seqedile ukukhuluma. Okungenziwa yikuthi amaCSO enze imihlangano leminywe imbukiso phezu kwendaba ezihambelana lesihloko

¹³³ See <https://zimlil.org/zw/legislation/act/1967/5>.

¹³⁴ Ibid.

somhlangano kodwa kungenzakala nxa kulelizwe elingasekela inhlelo ezinjalo. Inhlanganiso zika zulu zinakho njalo ukuhlela imihlangano emincinyane lezinye inhlanganiso kumbe lamanye amazwe. Iphumelo yenhlelo lezi ingabelwana lebameli bakahulumende phezu kokuthi ukukhohlakala kungavikelwa njani.

UNCAC Coalition

I *UNCAC Coalition* ingumhlangano womanyano omkhulu osebenzisana lezinye inhlanganiso enzingaba yi 350 kumazwe ayikhulu (100). Umsebenzi wayo uqakathekisa ukufeza lokuhlolisisa imisebenzi yomhlangano wayo. Le nhlanganiso zeZimbabwe zingamalunga alo umhlangano.

I UNCAC yasungulwa ngomnyaka ka 2006 isebenzelana lehlanganiso ezinengi umhlaba wonke, ukuze e Africa lasemazweni lapha etholakala khona. Injongo yayo yikuncendisa inhlanganiso ezizimele zodwa ezingayisizo zikaHulumende (Civil Society) ukuze ziqhubeke zikhulisa imibono lenjongo yobumbano (i-coalition)

1.9.2 Ukulandela izimiso zeSivumelwano

Zikhona inhlanganiso ezizimeleyo ezisebenzelana lomphakathi elizweni ngokusemthethweni phansi kwe *Private Voluntary Organizations Act* lezinye eziphansi komthetho ovumela amaqembu kumbe abantu abathembanayo ukuthi babumbe inhlanganiso ezinakakela umphakathi (Common Law Trust). Inhlanganiso ezilwisana nenkohlakalo lobugelekeqe zigoqela i *Transparency International Zimbabwe kanye le Anti-Corruption Trust of Southern Africa (ACT-SA)* kodwa inhlanganiso lezi zisebenza nzima ngenxa yamathuba amalutshwane.

Uhulumende uhleli ngaso sonke isikhathi encindezela amaphephanda lehlanganiso ezizimele zodwa ukuqhubeni imisebenzi yabo. Lokhu kwenza kube nzima kakhulu kulezi inhlanganiso ukuthi ziphatheke ekwenzeni imithetho engalwisa ubugelekeqe kanye lokukhohlakala. Lokhu kuvela obala ukuthi I ACT-SA yatshiywa phandle ngesikhathi uhulumende esenza ugwalu oluhlela indlela lamaqinga okulwisana lobugelekeqe elizweni (i*National Anti-Corruption Strategy and Action Plan 2020-2025*).

Kuqakathekile ukuthi amazwe athuthukise ukuphatheka kwabantu lamaqembu atshiyeneyo ngokuthi ilizwe libuswa njani ikakhulu emphahleni yabantu.¹³⁵

- ↔ Unozindaba uHopewell Chin'ono wabotshwa wavalelwa ngemva kokuveza mgceke ukukhohlakala okwenziwa ngowaye ngumphathintambo wezempilakahle umnumzane Obhadiah Moyo. unozindaba lo waveza ukuthi lemuli kamongameli welizwe yaphatheka kulobo bugelekeqe.
- ↔ Ngesikhathi kusiba lokubhikisha lokuvukela ababusi mhlaka 30 Ntulikazi 2020, amapholisa abopha abantu abanenengi abahloniphekayo elizweni abagoqela u Hopwell Chin'ono, UJacob Ngaruvhume, umlobi UTsitsi Dangarembga kanye loFadzayi Mahere. Bebotshelwa ukuthi kungani besola kakhulu ubugelekeqe obuselizweni. Basola kakhulu indlela imali ye Covid 19 eyasetshenziswa ngayo. Umsebenzi wokulwisana lobugelekeqe sowubange ukuthi inengi labantu abaphathekayo kulomsebenzi bayabotshwa abanye becatsha elizweni, abanye baphuma phandle kwelizwe.

1.9.3 Insilelo.

Ilizwe lihlasele kakhulu abantu abanengi kusukela ngesikhathi sokuthatha umbuso ngodlame ngomnyaka ka 2017, lango Zibandlilela 2019 lapho okwaba lokuvukela umbuso kwafa abantu abangu 17. Inhlanganiso ezizimele zodwa zaqala ukuthola imibiko eminengi ephathelane lokuthi abantu bayathunjwa abanye bayanyamalala kucatshangelwa ukuthi bathathwa yinhlanganiso yabacuphi. Inkampani enkulu yokusakaza elizweni layo yahlasela ihlanganiso ezimela

¹³⁵ See Mduduzi, M. (2020), 'Zimbabwe arrests health minister in Covid-19 procurement scandal'.

amalungelo abantu isithi ziqamba amanga ukuze zikhiphe uhulumende okhethiweyo ngokusemthethweni.

1.10 Isivumelwano Satshumi nane (Article 14) - Indlela zokuvikela ukutshaphazwa lokuhuquluzwa kwemali

1.10.1 Ukuhumutsha Isivumelwano

Isivumelwano (Article) 14 siyakhuthaza ukuthi izizwe eziphansi kwesibopho esokulwisana lobugelekeqe zibe lemithetho yokubamba lokuvikela ubugelekeqe. Kuyakhuthazwa njalo ukuthi amazwe atshiyeneyo abelobudlelwano ukuze baliswe lokhu kukhohlakala.

1.10.2 Ukulandela izimiso zeSivumelwano

Ilizwe leZimbabwe selafaka indlela ezitshiyeneyo zokuvikela uhuquluzwa kwemali. Lezindlela zaziwa ngesilungu ngokuthiwa *The Money-Laundering Act [Chapter 9:24]*, *the Bank Use Promotion & Suppression of Money Laundering Act [Chapter 24:24]*.

- ↔ Umthetho ovikela uhuquluzwa kwemali (*Money-Laundering Act [Chapter 9:24]*) iphoqeleta abantu ukuthi bananzelele njalo bahlolisise loba yini abakucabangela ukuthi kungaba zimali ezingekho emthethweni kumbe ngezinye indlela ezingalunganga ukuze kuvikeleke ukuhuquluzwa kwemali.
- ↔ Eyinye impumela kwaba yikuvula inhlanganiso ye *Financial Intelligence Unit (FIU)* ngomnyaka ka 2004. Isebenzelana lebhanga elikhulu lelizwe lanxa izimele yodwa njenge nhlanganiso. Kodwa kunjalo ayilamandla aneleyo emithethweni ukuthi isebenze yodwa ingela kusebenzelana lesiphala semali selizwe (iRBZ). Ngakho kuyakhuthazwa ukuthi lezi nhlanganiso kazizimele zodwa. Okunye okuhluphayo yikuthi inhlanganiso kayila-mali le mphahla eneleyo ukuthi iqhube kuhle umisebenzi wayo. Lokhu nxa kungenzeka kungaletha impumela enhle yokuvala ukuhuquluzwa kwemali lokuvikela imisebenzi yabahlamuki obungenzakala ngemali njengalokho okuloyiswa yisivumelwano kuhlandla lwe Anti-Money Laundering/Combating the Financing of Terrorism (*AML/CFT*).
- ↔ Ilizwe leZimbabwe lavula olunye ugatsha lwe *National Task Force* ukuzekulwiswe ubugelekeqe lokuvikela ukuhuquluzwa kwemali yizigangi.
- ↔ Ilizwe leZimbabwe selenza indlela zokubona lokukhangela okwenzakala emngceleni yelizwe ukuze imali ingaphumeli phandle mahlayana.
- ↔ Ugatsha lwezomthetho olokutshutshisa i*National Prosecuting Authority (NPA)* isebenzelana lezinye inhlanganiso ukuze kuvikelwe ukuhuquluzwa kwemali. Lolu hlangothi lusebenzelana le *International Criminal Police Organization (INTERPOL)*.

Isigaba (Section) 37 se *Money-Laundering Act* sinikeza linhlanagiso amandla okusebenzelana lezinye ihlanganiso zinikana ulwazi njengamazwe ehlukkeneyo.

TABLE 6: Izichwayisiso ezamukelwa lugatsha lweFIU kweleZimbabwe¹³⁶

Agency	2015	2016	2017	2018
ZIMRA	3	14	23	55
Immigration	5	4	5	7
National Intelligence Service	2	4	8	24

¹³⁶ See <https://www.fiu.co.zw/wp-content/uploads/2020/11/Consol-NRA-2020.pdf>.

CID HQ	2	0	1	0
CID CCD	17	17	22	63
CID Minerals Flora and Fauna	1	1	0	2
CID Law and Order	1	3	2	5
INTERPOL NCB Harare	0	0	1	1
ZACC	0	1	1	16
NECI	0	1	2	1
CID Anti-Corruption Unit	0	0	0	6
CID Asset Forfeiture Unit	0	0	0	13
CID Homicide	0	0	0	3
CID Vehicle Theft Squad	0	0	0	5
RBZ Financial Markets	0	0	0	1
TOTAL	31	45	65	201

1.10.3 Insilelo

I nhlangansiso ehlolisisa ngezemali i Financial Intelligence Unit kayizemelanga ngokupheleleyo kubhanga elikhulu lelizwe (RBZ) njalo imisebenzi yabo ikhulelwa yikuswelakala kwempahla kanye lemali yokusebenzisa.

2 Isahluko Sesihlanu (Chapter V) - Ukubuyiselwa komnotho

Izivumelwano (Article) 51 kusiya ku 59 zinikeza indlela okufanele amalunga atshiyeneyo okufanele azithathe nxa belandelela impahla entshontshiweyo. Njalo kuyakhuthazwa ukuthi kube lobudlelwano phakathi zizwe eziphansi kwesibopho esokulwisana lobugelekeqe ese UNCAC ukuzekuvele mgceke lokhu kuganga ukuze lempahla etholakayo igcineke kuhle.

Indlela yokuthatha kumbe ukubamba kokuphela impahla ebiweyo, kumele kube lencwadi evela emthethwandaba. Nxa lokhu kuphumelela kuba ngeyinye yempumela eziqakathekileyo kulo umsebenzi. Ukulwisana lobugelekeqe bezinga laphezulu kunzima kakhulu ngoba lezi zigangi zilemali, lezidakamizwa kanye lezikhali. Emnyakeni edule sokwabonakala ukuthi ukuvalela lezi zigebeza entolongweni kakusizi kodwa ukubathathela impahla abalayo”.

Ukulonda impahla engekho emthethweni lokuyithatha sokubonakele kuyindlela emangalisayo kakhulu njalo emqoka ekulwiseni lokhu kuganga kwezinga laphezulu. Lokhu kubenza baswele imali yokuqala phansi ukuganga kwabo kutsha. Lomthetho uyafisa kakhulu ukuthi ukuganga kungabhadali ukuze izigangi zazi ukuthi impilo kumele iphilwe ngendlela eqondileyo.

2.1 Isivumelwano Samatshumi amahlanu lamunye (Article 51) - Izinqumo Jikelele, Isivumelwano Samatshumi nasithupha (Article 56) - Ukusebenzelana Mqoka, LeSivumelwano Samatshumi natshiyagolo munye (Article 59) - Izivumelwano phakathi kwamazwe amabili laphakathi kwamazwe amanengi.

2.1.1 Ukuhumutsha Izivumelwano

Isivumelwano (Article) 51 sesibopho sokulwisana lobugelekeqe sithi kuqakathekile ukuvikela ukuthunyelwa kwemali yokuganga phambili, lokhu kwenzelwa ukubamba izigangi njalo kumele amazwe asebenzelane. Amazwe aphaathekayo kulesisibopho ayakhuthazwa ukuba baphatheke kakhulu ekulwiseni lokhu kuganga. Ngokuqakathekileyo, amazwe kufuze abumbe ubudlelwano phezu kokuthumba impahla ezafunyanwa ngendlela engaphandle komthetho.

Isivumelwano Samatshumi amahlanu nasithupha (Article 56) sifisela ukuthi izizwe zabelane ulwazi phezu kwempahla eyatholakala ngemisebenzi yokunaga okungavunyelwa yisivumelwano.

Isivumelwano samatshumi amahlanu natshiyagalo lunye (Article 59) siloyisa ukuthi izizwe zibumbe izivumelwano nobudlelwano obuvula amathuba okuchwaya lokulonda impahla nenzuzo nengalokho okuqondiswa yiSahluko Sesihlanu esesivumelwano seUNCAC.

2.1.2 Ukulandela izimiso zeZivumelwano (Articles) 51, 56 lo 59.

Umthetho wokulandelela umnotho ugoqela:

- a) Ukuvikela ukutshaphazwa lokuququluzwa kwemali lenzuzo ngokuganga [Money Laundering and Proceeds of Crime Act [Chapter 9:17],¹³⁷ lalapho okwatshintshwa khona,¹³⁸
- b) Okumayelana lokusebenzelana kwamazwe ekulwiseni ukuganga Criminal Matters (Mutual Assistance) Act [Chapter 9:06]¹³⁹; njalo
- c) Umthetho ogcizelela ngokuqatheka kobufakazi ekuthethweni kwecala Criminal Procedure and Evidence Act [Chapter 9:07].¹⁴⁰

¹³⁷ See <https://zimlil.org/zw/legislation/num-act/2013/4/Money%20Laundering%20and%20Proceeds%20of%20Crime%20Act.pdf>.

¹³⁸ Ibid.

¹³⁹ See <https://www.jsc.org.zw/jscbackend/upload/Acts/2014/0906updated.pdf>.

¹⁴⁰ See <https://zimlil.org/zw/legislation/act/2016/2>.

Ugatsha luka hulumende oluchwayisisa ngobugelekeqe kanye lokukhohlakala IZACC, yathembisa ukudlelana lamanye amazwe ukuze benelise ukudinga imphahla yelizwe eyakhutshelwa ngaphandle kwelizwe ngokungekho emthethweni. Lolugatsha luthi lwananzelela ukuthi izigidi zamadola eMelika angaba yi 4.5 million aphuma elizweni ngendlela engaqondanga ngokunjanlo iZACC yenelisa ukuthatha imphahla yezisebenzi ze Zimra ezazithengwe ngendlela engayisiyo.

Isigaba (Section) 6B(c) se Money-Laundering Act siyavumela iFIU ukuthi inekeze uzulu ulwazi elutholayo ngezinye ihlanganiso zangaphandle. Isigaba (Section) 37 (1) siyapha futhi amandla okuthi iFIU iphe ezinye inhlanganiso lokho elakho kodwa okumqoka yikuthi kufanele kube yimfihlo phakathi kwalezi nhlanganiso. Okwakhethesi akula ubufakazi obusegcekeni obutshengisa ukuthi lokho kuyenzeka.

IZimbabwe Republic Police layo kufanele inikeze ezinye inhlanganiso zamapholisa ulwazi. Ezifana le INTERPOL. Kodwa sokuze kwaba lezahlakalo lapho lezihlanganiso ezingawelelananga khona. Lokhu kwabonakala ngesikhathi kudingwa abahlamukela umbuso okhona khathesi u Jonathan Moyo, Saviour Kasukwere, Patrick Zhuwao, Mandiitawepi Chimene and Walter Muzembi abaphuma bebaleka elizweni ngesikhathi sokuhluthunwa kombuso kuMugabe. Lokhe kwenzeka ngoba labo babelamacala okukhohlakala elizweni.¹⁴¹

Ilizwe leZimbabwe lilunga le *Asset Recovery Inter-Agency Network for Southern Africa (ARIANSA)*, lapho ezinikana khona ulwazi. Indaba yesisebenzi se ZIMRA esendlu eyathunjwa nguhulumende layo yabikwa ebulenjini be ARIANSA kusenzelwa ukuthi umhlaba wonke ubekwazi.

Ilizwe leZimbabwe lilobudlelwano njalo nezinye inhlanganiso ezifana nenhlanganiso yomanyano wamazwe aseningizimu, iSouthern African Development Community (SADC) le nhlanganiso eyomanyano wamazwe eAfrica (iAfrican Union (AU)). Ilizwe leZimbabwe lemukela lavuma ukuba phansi kwesibopho esokulwisana lobugelekeqe emkhonweni wezansi kweleAfrica (i SADC Protocol against Corruption (SPAC)) njalo lokuba phansi kwesibopho esikhuthaza ukwenqabela lokulwisa ubugelekeqe eAfrica jikelele (iAfrican Union Convention on Preventing and Combating Corruption (AUCPCC)). Nhlanhlaambi, ilizwe leZimbabwe kalikabi lesivumelwano lamanye amazwe phezu kwendaba zokulwisa amacala awobugebengu.

2.2 Isivumelwano Samatshumi amahlanu nambili (Article 52) - Ukuvimba lokulonda ukuhuquluzwa kwenzuzo yokuganga le Sivumelwano Samatshumi amahlanu nasifica minwe mibili (Article 58) – Ugatsha lwabacuphi bezemali (Financial Intelligence Unit)

2.2.1 *Ukuhumutsha Izivumelwano*

Isivumelwano (Article) 52 sithi amalunga amazwe aphahekayo kuloluhlelo kufanele athathe amanyathelo aqondileyo nxa esenza imisebenzi ephathelane lemali kungakhathalekile ukuthi lokhu kuhambisana lokuganga kumbe lokuhuquluzwa kwemali. Ngokunjalo, isixwayiso lesi esikhuthaza inkalipho emsebenzini wezemali akufuzanga sibengumgoqo emsebenzini wenhlanganiso ezibona ngezemali. Nxa amabhanga esenza kuhle lokhu kuzakwenqabela ukuganga okungaba khona.

Isivumelwano (Article) 58 sethesa umlandu kumazwe aphantsi kwesibopho esokulwisana lobugelekeqe ukuthi amabhanga kufanele abelobudlelwano ancedisane ukuze benelise ukulwisa

¹⁴¹ Ibid.

lokuvikela ukugwedlulwa komnotho oyinzuzo yokuganga. Isibopho lesi sikhuthaza njalo ukuthi amazwe abelengatsha ezabacuphi kwezemali eze *Financial Intelligence Unit* emazweni azo ukuze babelane ulwazi ngokwenzakalayo.

2.2.2 Ukulandela izimiso zeZivumelwano

Umthetho kusigaba (Section) 14 (1) oku Money-Laundering and Proceeds of Crime Act [Chapter 9:24] uyenqabela amabhanga ukuthi bangagcini imali engaziwayo ukuthi ngekabani njalo kumele bazi ukuthi amabizo akhona ngaweqiniso hatshi awamanga.

Isigaba (Section) 15 (3) siphophelela ukuthi amabhanga wonke abekwazi abantu abathunyelwa imali. Kufanele njalo bazi ukuthi umathola imali ngumuntu kazana nje kumbe ngumuntu odlalana labezombusazwe. Ngokunjalo abakhulu bebhanga kufanele babuchwayisise lobu budlelwano. Kulandelwa isigatshana (Section) 20 (1) (b), kufanele njalo ukuthi abamabhanga bazwisise ukuthi imali yakhona ivela ngaphi.

Ihofisi kanqonqotshi we FIU ilawo amandla:

- a) okuphoqa lokupha indlela yokusebenza lokuzwisisa kabanzi ngengozi ezingaba khona.
- b) kumele kwenqatshelwe ubudlelwano lenhlanganiso nemilandu yazo.

Kungaba yibutshapha obukhulu nxa inhlanganiso zemali zingekela ukwenza umsebenzi wazo ngobunono obukhulu ukuze ibhizimusi zabo lemali ezitshintshana izandla zivele ebantwini abamikhule ngezomthetho. Kumele amazwe adlelanayo ku FIU alandele umthetho we Financial Action Task Force

Isigaba (Section) 24 se Money-Laundering and Proceeds of Crime Act [Chapter 9:24] sithi sona zonke inhlanganiso kuqakathekile ukuba zigcine kuhle amabhuku alolwazi ngabathenga kubo njalo kumele ahlale okweminyaka emihlanu kusukela ngelanga okwathunyelwa ngalo imali kumbe ngelanga ubudlelwano obaphelela khona. Ngephutha akwazakali ukuthi lezi nhlanganiso ziyakwenza lokhu na.

Isigaba (Section) 13 se Money-Laundering and Proceeds of Crime Act [Chapter 9:24] sithi kulicala kweleZimbabwe ukubumba ibhanga elisemoyeni elingela mahofisi elizweni lapho elisebenzela khona. Ngakhoke kulicala lakho ukuthi umuntu abelobudlelwano kumbe avule amabhuku ezemali kunhlanganiso ezinjalo.

2.2.3 Insilelo

Lanxa kulemithetho emisiweyo, ubunzima buhleli bukhona. Ilizwe leZimbabwe kalikafiki ebangeni lokuthi abantu baveze umbele wenzuzo yabo lokuthi imali bayithatha ngaphi ikakhulu abasebenza emahofisini kaHulumende. Lokhu sokubangele ukuthi abalezikhundla ezinkulu emankampanini elizwe bangazihluphi ngokutshela loba ukuvezela umphakathi ukuthi banezimali kwamanye amazwe.

Isimo lesi siyaphila elizweni nanxanga ugatsha lweFIU lulamadla owokucupha ulwazi kunhlanganiso ezemali kugoqela njalo ezinye inhlanganiso ezilotshwe kuluhlu lwesigaba (Section) 6E olwe Money-Laundering and Proceeds of Crime Act [Chapter 9: 17]. Ngokunjalo, ihofisi kanqonqotshi we FIU inakho ukuthi okwamalanga angamatshumi lane iphose imigoqo evimba ukusebenza kwengcebo ezicatshangelwa ukuthi zingcine inzuzo yezigangi.

2.3 Isivumelwano Samatshumi amahlanu nantathu (Article 53) Indlela zokubuyisela impahla, Isivumelwano Samatshumi amahlanu nane (Article 54) Indlela zokubuyisela izimpahla ngokusebenzelana lamanye amazwe omhlaba endabeni zokuthumba le Sivumelwano Samatshumi amahlanu nanhlano (Article 55) Ukumanyana lokuphathisana kwamazwe endabeni zokuthumba umnotho ogwedlulelwe phandle kwelizwe

2.3.1 *Ukuhumutsha Izivumelwano*

Isivumelwano (Article) 53 sesibopho sokulwisana lobugelekeqe emhlabeni sichasisa kabanzi ngokuthatha impahla ezathengwa ngokungekho emthethweni. Kungenzeka ukuthi amanye amazwe avule amacala ukuze bathole iqiniso ngokuthi impahla ngezikabani. Ngokunjalo uhulumende ulakho ukukunikeza isingxephezelo nxa engabulala impahla yakho. Okokucina uhulumende utshisekela ukuthi inkantolo zelizwe zikubhadale. Kusivumelwano (Article) 54, isibopho sikhuthaza ukuthi kube lendlela amazwe adlelana ngayo ukuze kuthathwe impahla ebiweyo kumbe eyathengwa ngokukhohlakala lobugelekeqe Amazwe ayakhuthazwa njalo ukuthi azimisele ukuphathisana namacebo awezomthetho kundaba zokuhluthuna lokuthumba impahla etholakale ngendlela zokuganga.

Isivumelwano (Article) 55 siloyisa ukuthi ngokuvumelana, amazwe kufanele athathe inyathelo lokuthumba ngokusemthethweni impahla eyagwedlulwayo ivela kwelinye ilizwe. Njalokufanele uhulumende agcwalisise isiloyiso lesi ngokumisa imithetho enelisa ukuthi indaba lezi zifezwe. Nxa sokunjalo kuzaba lula ukuthi inkantolo zelizwe zithathe izinqumo ezigcwalisa izifiso zezwe elatshontshelwayo..

2.3.2 *Ukulandela izimiso zeZivumelwano 53, 54 lo 55*

Ilizwe leZimbabwe kalila mithetho evumela amanye amazwe ukuthi ozovula amacala kuleli lizwe ukuze bazi ukuthi impahla kumbe umnikazi kadalanga cala na. Udubo olukhona luvela ekuchasisweni kokuthi 'umuntu' yini phansi kukasigaba 2 we Criminal Procedure and Evidence [Chapter 9:23] Act. Umthetho lo awugogeli izifiso zamanye amazwe. Okunye yikuthi ilizwe leZimbabwe kalizihluphi ngokukhulunywa ngamanye amazwe mayelana ngabanikazi bempahla.

Isigaba (Section) 32 se Criminal Matters (Mutual Assistance) Act [Chapter 9:06] siyavumela ukunanzwa kwesigwebo sokuthumba esetheswa ngenkantolo yelinye ilizwe. Lokhu kungenziwa yinkampani esemthethweni kumbe zinkantolo zelizwe.

Impahla okucatshangelwa ukuthi ngeyomuntu owake wapika ejele egwetshelwe icala lokuhququza imali, layo ingathunjwa. Isigwebo sokuthumba umnotho singetheswa emntwini obalekela icala kumbe osowafayo kulandelwa izimiso ezikusigaba (Section) 51 ese Money-Laundering and Proceeds of Crime Act. Ngokunjalo, isiqo sakuqala kuSahluko Sesihlanu (Part I ka Chapter V) somthetho wonalowo siyavumela ukuthunjwa kwempahla eyatholakala ngendlela zokuganga kumbe zizimpahla zabahlamuki.

Isiqo Sesibili (Part II) esomthetho okuthaza ubudlelwano bamazwe kundaba zokulonda imisebenzi yokuganga (Criminal Matters (Mutual Assistance) Act [Chapter 9:06]) uvumela Umphathintambo wogatsha lwezemithetho ukuthi akhethe amazwe lapho okungavela khona ingwalo zobufakazi. Kodwa ngesikhathi kulotshwa inhlolisiso leyi akunalizwe eselikhethiwe njengesiloyiso somthetho. Lokhu kungaphazamisa inhlelo zokucubungula amacala.

Nokunjalo, akukabi lesicelo esidinga ukuthi kube lokuthunjwa kwempahla kusetshenziswa umthetho okuthaza ubudlelwano bamazwe kundaba zokulonda imisebenzi yokuganga (Criminal Matters (Mutual Assistance) Act [Chapter 9:06]) njalo akukabi lamacala ayethesa umlawulo kungatsha zomithethwandaba yakuleli ukuthi ananze izinqumo lemigoqo etheswa ngamanye

amazwe phezu kwendaba ezokuhquluzwa komnotho. Isigaba (Section) 9 somthetho owe Criminal Matters (Mutual Assistance) Act sivumela njalo imithethwandaba ukuthi inanze izinqumo lemigoqo etheswa ngamanye amazwe phezu kwamacala okuhquluzwa komnotho. Ilizwe leZimbabwe kalidingi ukuthi kube lesivumelano lelinye ilizwe kumsebenzi owokuthumba umnotho owagwedlulwayo.

2.4 Isivumelwano Samatshumi amahlanu lasikhombisa (Article 57) - Ukubuyiselwa lokwabelwa kwomnotho ophendukisiweyo

2.4.1 *Ukuhumutsha Isivumelwano*

Isivumelwano (Article) 57 sesibopho sokulwisana lobugelekeqe emhlabeni siqinisa ukuthi kubelemigoqo okumele ilandelwe ekuthathweni kwempahla. Okuqakathekileyo yikuthi impahla yakhona iyakubani. Njalo impahla ethathwayo kumele kulandelwe imithetho yelizwe lamanyathelo okubisela lezo mpahla kubanikazi bazo. Lokho kufanele kwenziwe ngabantu abalolwazi nxa impahla sezibiselwa.

2.4.2 *Ukulandela izimiso zeSivumelwano*

Yonke imali ethathwayo kufanele ihanjise ebhanga iyegcinwa kuhle. Umthetho uyavumela umphathintambo wezemali i ukusebenzise umthetho othiwa yi Recovered Assets Fund ukuthi athathe leymali ibeyisingxephezelo kubantu abangabe balahlekelwa ngesikhathi kusenzeka lobo bugelekeqe kumbe ukukhohlakala. Kuze kube namuhla eZimbabwe asikaze sibone lokhu kusenzakala emphakathini.

Phezulu kwalokho umphathintambo wezemali ulakho ukuthi lokho okutholakeleyo ngesikhathi kuthathwa imali akwabelane lamanye amazwe kusetshenziswa isigaba 97 (2) (b) somthetho.

2.4.3 *Insilelo*

Ilizwe leZimbabwe kalikagcwalisisi isivumelwano sokuthi impahla ethathwayo ichithizwa kanjani. Ilizwe leZimbabwe lilawo amandla amanengi ukuthi lilandelele yonke impahla eyakhitshwa elizweni okungekho emthethweni ngoba balawo amabizo amazwe lapho okuhleli khona leyo notho. I Zimbabwe Anti-Corruption Commission (ZACC) yabika ukuthi inengi labantu elalilamandla kwezombusazwe zeba izigidi lezigi zamadola eMelika angaba yi 7 Billion. Umgcinisihlalo we ZAAC u Loice Matanda Moyo wathi imali le izwakalela kula amazwe iSwitzerland, iUnited Kingdom, iUnited States of America, iSingapore, iHong Kong, iMalaysia, iMauritius lase Spain.

Udubo olukhona yikuthi inkokheli zelizwe kazitshisekeli ukuthi lowu msebenzi ufezwe. Ngomnyaka ka 2018 kuthiwa amankampani ayi 1844 beba imali yelizwe enengi lawo ayegoqela amankampani embayo imigodi, abalimayo lamanye asemafekithali. Uhulumende wazama ukuwayangisa lamankampani ngokuwaqamba kodwa akula ngitsho leyodwa eyaphendukisa imali. Ukusweleka komfutho kwabezombusazwe ukuthi balandelele le mali kwenziwa yikuthi abaphatheka kulokhu kukhohlakala badlelana lababusi. Abakhoheli be ZACC bathi kufanele imali yonke eyegwedlulelwa phandle kwelizwe iphendukiswe kodwa ukusweleka kokuzinikela kubisela lumsebenzi emuva.

V. Inthuthuko esanda kwenzekala

↔ Ukusungulwa kwe Assets Forfeiture Unit (AFU)

Ugatsha luka Hulumende olokutshutshisa amacala (NPA) kanye leZACC sezilesikhathi zizama ukuthi zithathe impahla ezazitholakala ngobugelekeqe lokukhohlakala. Umtshutshisi omkhulu uMnu. Kumbirai Hodzi uthi ugatsha lwakhe selwenze imizamo eminengi ukuthi bawufeze umsebenzi wokulandelela impahla ezitshontshiweyo. Lokhu bakwenza bencedisana kuyi ZACC, *Zimbabwe Revenue Authority, le Financial Intelligence Unit*. Umsebenzi wabo ugoqela ukubona, lokulandela lokunqumisa kanye lokuthumba impahla zakhona. Lokhu kwenziwa liqembu eligoqela amagqgwehtha labanye abaphenyayo. Uhlangothi lwe Asset Recovery Unit (AFU) kusigaba 27A (4) ye *Money Laundering and Proceeds of Crime Act [Chapter 9:24]*, sebathola ukuthi amankampani ayi 14 alamacala okwenza okubi ngomnyaka ka 2020.

↔ Ukunikwa amandla lokufunda okumisiweyo

Ngomnyaka ka 2019 inhlanganiso ye ZACC ike yathumela izisebenzi zayo ukuthi ziyethuthukisa ulwazi lwabo. Bavakatshela amazwe agoqela iNigeria, Botswana lase Tanzania besiya bona ukuthi bona ezabo inhlanganiso zisebenza njani.

↔ Incwadi eyoMthethwandaba Omkhulu eyokuthumba impahla ezitholakale ngokusebenzisa inzuzo evela kumisebenzi yobugelekeqe

KuZibandlela ngomyaka ka 2020 umtshutshisi omkhulu walanda inkantolo ephezulu esiya cela ukuthi kuthathwe umhlabathi lemota ezazi ngezomunye wezisebenzi ze Zimra owayesebenzela emgceleni welizwe eBeitbridge. Kwakucatshangelwa ukuthi inotho yakhe wayeyithole ngobugwelegwele.¹⁴²

↔ Impahla ezatholakalayo, izimali lemigoqo eyabekwa ngokusemthethweni ngo 2019

I ARINSA ngomyaka ka 2019 yasakaza ukuthi uhulumende we Zimbabwe ukewaphenya amacala angaba yi 232 wokuququluzwa kwemali elizweni. Kwathi angamatshumi ayisikhombisa (70) ayegoqela inani lomnotho owathunjwayo. Imali eyatholakayo ngokuthathelwa yaba US\$7 145 298. Kwathi kunjalo kwaba lamanye phezulu, okwatholakala khona iUS\$6 588 000.¹⁴³

¹⁴² Laiton, C. (2020), 'PG seeks forfeiture of Zimra official's assets', available at <https://www.newsday.co.zw/2020/01/pg-seeks-forfeiture-of-zimra-officials-assets/> [accessed on 28 November 2020].

¹⁴³ ARINSA (2020), '2019 Annual Report', available at https://www.unodc.org/documents/southernafrica/Publications/TransnationalOrganisedCrime/ARINSA_Annual_Report_2020_Final.pdf [accessed on 28 November 2020].

VI. IZIQONDISO

↔ Iziqondiso ezimqoka

Iziqondiso ezikhangelelweyo eZimbabwe:

1. Kumele kubelokuxoxisana phakathi kwama CSO's lamaphephandaba azimele wodwa ehlelweni lokuphumelelisa isibopho seUNCAC ekulwiseni ubugelekeqe.
2. Kufanele kube lomthetho njalo ulandelwe ukuze ulwazi oluphiwa abantu baluphiwe ngendlela ephakeme njengokuthi kwamanye amazwe kwenziwa njani. Njalo kumele kube lekhomishini ezimile yodwa ezakhangelisisa ngokweso lokhozi. Kumele kube lomthetho wokuthola ulwazi oluphathelele lindlela ezikhangayo amanye amazwe ayenza ngazo.
3. Kufanele kwengezwe inani lempahla lendleko zomsebenzi ezigoqela imali kanye lezisebenzi kunhlanganiso ezinjenge Zimbabwe Anti-Corruption Commission (ZACC) le Financial Intelligence Unit (FIU) ukuze ziqhube umsebenzi wazo kuhle.
4. Kufanele kubelomsebenzi omkhulu wokubhidliza amacala abantu abangaba lecele kwezombusazwe abane gunya lokwenza umathanda besenza imisebenzi yokukhohlakala bethembe ukuthi badlelana lababusi.

↔ Iziqondiso ezimayelana lesahluko Sesibili (Chapter II) se UNCAC

Iziqondiso ezikhangelelweyo eZimbabwe:

5. Kumele inhlanganiso ezitshiyeneyo ezigoqela inhlanganiso zikazulu amaCSO's, lamaphephandaba azimele wodwa aze ndawonye azofeza isu le National Anti Corruption Strategy 2020 -2024.
6. Inhlanganiso kufanele ziphiwe impahla lemali eneleyo ukuze zifeze umsebenzi wazo zingaphoqeletwa njalo kungelakungenelwa phakathi.
7. Kumele kubemgceke ukuthi umuntu oqatshwe nguhulumende uthakazelelani ukuze kungabi lezifiso zosebenzayo ezingaphazamisa umsebenzi, njalo kufanele kubunjwe indlela zokuthi izisebenzi zikahulumende zicebe imphazamo lezi kubathungameli bomsebenzi.
8. Izisebenzi zika Hulumende kufanele ziqatshwe ngezicoco lobuciko bazo.
9. Kumele kube lindlela yokusebenza emqoka eqondisa ukuziphatha kwezisebenzi njalo kufanele ilandelwe yizisebenzi zonke zika Hulumende.
10. Kufanele kwenziwe umthetho lindlela ezakwenza kube lula ukuthi abantu baveze ubugelekeqe lokukhohlakala okwenzekayo emankampanini kazulu.
11. Kufanele ziqiniseke njalo ziphiwe amandla inhlanagniso zikaHulumende ukuze ukukhohlakala lobugelekeqe bumiswe masinya.
12. Kufanele ingatsha zikahulumende ziphiwe amandla okuphenya, lokutshutshisa amacala aphantelane lokuganga ngemali jikelele. Kufanele kwenziwe umthetho wokuthola ulwazi njalo lomthetho uhambisane lokuthi kwamanye amazwe benza njani. Phezu kwalohko kumele kube lenhlanganiso ezimele yodwa ezafeza lowu msebenzi.

13. Kufanele kuhlolwe njalo umthetho oqondisa imisebenzi yamankampani ngokusemthethweni oweCompanies and Other Business Entities Act ukuze kubunjwe isiphala esigcina ulwazi lamabizo amankampani kusetshenziswa indlela zakulezinsuku ezamagasi.
 14. Kufanele ukuthi umthetho womgciningcebo okaMthelisi wenqabele ukuthi imali eyomthelo ebanjelwa izisebenzi kuholo labo ingaphambanjaniswa ngokugoqeli imali eyezivaulamlomo.
 15. Kufanele kube lendlela emgceke esebenzisa ulwazi lwakathesi ekuqoqeni, ukuhluzisisa ukunxusa lendlela yokuthenga imphahla zikazulu kusebenziswa indlela yeOpen Contracting Data Systems ukuze umphakathi abelolwazi. Ulwazi lonke olukhona kumele luphiwe umphakathi kalula.
- ↔ **Iziqondiso ezikhangelelweyo eZimbabwe: Okuqondiswayo kuZAAC.**
16. Kufanele linhlanganiso itshengise ukuzimela yodwa nxa iphenya amacala agoqela abantu abalecele kwezombusazwe belobudlelwano lababusi.
 17. Njalo kumele isebenze ngobunono obuphezulu, ibone ukuthi into zonke zenziwa mgceke kanye lokulandela wonke amacala afinyelela kibo evela kubasikibebunda.
- ↔ **Iziqondiso eziphathelane leSahluko Sesihlanu (Chapter V) se-UNCAC**
Iziqondiso ezikhangelelweyo eZimbabwe:
18. Kufanele abantu baveze inotho yabo kuzulu eselizweni lengaphandle ikakhulu entweni ezigqela imali;
 19. Kufanele kwenziwe indlela yokukhokhelela amankampani emali ukuthi enqabele ingozi kumsebenzi yezemali kugoqela emankampaneni awamagqwetha, izingcitshi, abemidlalo amaCasino, abathengisi bezindlu labathengisa amatshe aligugu labanye;
 20. Kufanele kubunjwe umthetho okhokhela umsebenzi wokuthumba umnotho owahuquluzwayo njalo kube nezimiso nendlela ezokuhluthunela izigangi inzuzo eyatholakala ngemisebenzi wokuganga;
 21. Kufanele kwenziwe imithetho yokudlelana lamanye amazwe ukuze kuphenywe ubugelekeqe lokuhuquluzwa kwemali.
 22. Kufanele kuguqulwe imithetho yelizwe ukuze amanye amazwe afinyelele imithethwandaba yakuleli ekuchwayisiseni ngesimo semphahla eyatholakala ngemisebenzi yobugelekeqe.
 23. Inhlanganiso Ze Financial Intelligence Unit (FIU) kanye le Zimbabwe Anti-Corruption Commission (ZACC), kufanele ziphiwe amandla nendleko ezenelisa ukuthi batshetshise umsebenzi wokulonda umnotho owagwedlulwayo.
 24. Kufanele kuguqulwe umthetho owe Public Entities Corporate Governance Act [Chapter 10:31] ukuze ube lezijeziyo kulabo abethula imibiko yamanga.
 25. Kufanele kube lokudlelana kumazwe angaphandle ukuze benelise ukulandelela, ukuthatha, ukuthumba kanye lokubisela umnotho owagwedlulelwa phandle kwelizwe.

VII. ISANDISO

INHLELANGWALO

Abdur Rahman Alfa Shaban (2018), 'Zimbabwe publishes list of nation looters, chasing \$827 million', available at <https://www.africanews.com/2018/03/19/zimbabwe-publishes-list-of-nation-looters-chasing-827-million/> [accessed on 28 November 2020].

Aljazeera (2018), 'Is Chiwenga on a Path to Transform Zimbabwe in Sisi's Egypt', available at <https://www.news24.com/news24/africa/zimbabwe/is-chiwenga-on-a-path-to-transform-zimbabwe-into-sisis-egypt-20180504> [accessed on 27 November 2020].

Amnesty International (2020), 'Zimbabwe: Authorities continue their crackdown on dissent with arrest of investigative journalist and activist', available at <https://www.amnesty.org/en/latest/news/2020/07/zimbabwe-authorities-continue-their-crackdown-on-dissent-with-arrest-of-investigative-journalist-and-activist/> [accessed on 27 November 2020].

Amnesty International (2020), 'Zimbabwe: Authorities thwart anti-corruption protests, launch a witch-hunt against activists', available at <https://www.amnesty.org/en/latest/news/2020/07/zimbabwe-authorities-thwart-anti-corruption-protests-launch-a-witchhunt-against-activists/> [accessed on 28 November 2020].

Anti-Corruption Trust of Southern Africa (2017), 'ZANU-PF Abusing and politicizing civil servants in Zimbabwe', available at <http://kubatana.net/2017/09/15/zanu-pf-abusing-politicizing-civil-servants-zimbabwe/> [accessed on 27 November 2020].

Applied Law & Technology (2020), 'Zimbabwe gazettes Cyber Security and Data Protection Bill', available at <https://altadvisory.africa/2020/05/20/zimbabwe-gazettes-cyber-security-and-data-protection-bill/> [accessed on 28 November 2020].

ARINSA (2020), '2019 Annual Report', available at https://www.unodc.org/documents/southernafrica//Publications/TransnationalOrganisedCrime/ARINSA_Annual_Report_2020_Final.pdf [accessed on 28 November 2020].

BBC (2020), 'Coronavirus: Zimbabwe health minister in court on corruption charges', available at <https://www.bbc.com/news/world-africa-53119989> [accessed on 20 December 2020].

Bwititi K. (2020), 'NPA cranks up machinery for asset recovery', available at <https://www.sundaymail.co.zw/zacc-npa-cranks-up-machinery-for-assets-recovery> [accessed on 28 November 2020].

Chigumadzi, P. (2020), 'In Zimbabwe, two political prisoners are a symbol of a repressive state', available at <https://www.washingtonpost.com/opinions/2020/08/18/zimbabwe-two-political-prisoners-are-symbol-repressive-state/> [accessed on 28 November 2020].

Chingarande, D. (2018), 'Anti-corruption courts officially open', available at <https://www.newsday.co.zw/2018/03/anti-corruption-courts-officially-open/> [accessed on 25 December 2020].

Committee to Protect Journalists (2020), 'Journalists attacked in Zimbabwe since 1992', available at <https://cpj.org/africa/zimbabwe/> [accessed on 27 November 2020].

Cross, E. (2011), 'The greed and corruption of Obert Mpofu', available at <http://www.politicsweb.co.za/opinion/the-greed-and-corruption-of-obert-mpofu> [accessed on 27 November 2020].

Du Plessis, C. (2020) 'Zimbabwe seeks former Mugabe minister Saviour Kasukuwere's extradition to face criminal charges', available at <https://www.dailymaverick.co.za/article/2020-10-13-zimbabwe-seeks-former-mugabe-minister-saviour-kasukuweres-extradition-to-face-criminal-charges/> [accessed on 27 November 2020].

Guma, L. (2011), 'Zimbabwe: Debate in Parliament Exposes Broadcasting Authority', available at <https://allafrica.com/stories/201112150186.html> [accessed on 27 November 2020].

Gumbo, L. (2016), 'MPs to declare assets', available at <https://www.herald.co.zw/mps-to-declare-assets/> [accessed on 25 December 2020].

Heal Zimbabwe Trust (2019), 'Heal Zimbabwe condemns arrest of CSO members', available at <http://kubatana.net/2019/05/21/heal-zimbabwe-condemns-arrest-of-cso-members/> [accessed on 28 November 2020].

Herald (2014), 'How did Zifa pay a ZAAC investigator?', available at <https://www.herald.co.zw/how-did-zifa-pay-a-zaac-investigator/> [accessed on 24 November 2020].

Human Rights Watch (2019), 'Zimbabwe: Excessive Force Used Against Protesters', available at <https://www.hrw.org/news/2019/03/12/zimbabwe-excessive-force-used-against-protesters> [accessed on 28 November 2020].

Implementation Review Group (2020), 'State of implementation of the United Nations Convention against Corruption', available at <https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/8-10June2020/V2002129e.pdf> [accessed on 20 December 2020].

International Commission of Jurists (2003), 'High Court judge arrested in Zimbabwe', available at <https://www.icj.org/high-court-judge-arrested-in-zimbabwe/> [accessed on 28 November 2020].

IPC Consultants (2017), 'Nepotism Prevalence in the workplace survey report', available at <http://ipcconsultants.com/wp-content/uploads/2017/03/Nepotism-in-the-workplace-survey-report.pdf> [accessed on 27 November 2020].

Judicial Service Commission (2020), 'Chief Justice Malaba', available at <https://www.jsc.org.zw/jscbackend/upload/Publications/Chief%20Justice%20L%20Malaba%2027-01-2020.pdf> [accessed on 25 December 2020].

Kairiza, T. (2018), 'Mnangagwa's anti-corruption unit illegal', available at <https://www.theindependent.co.zw/2018/06/01/mnangagwas-anti-corruption-unit-illegal/> [accessed on 3 February 2021].

Kanambura, A. (2019), 'Uproar over Mnangagwa's Pick of New Chair', available at <https://www.theindependent.co.zw/2019/03/29/uproar-overmnangagwas-pick-for-new-zacc-chair/> [accessed on 7 November 2020].

Karombo, T. (2020), 'Outrage over coronavirus hospitals for 'political elite' in Zimbabwe', available at <https://www.zimlive.com/2020/03/26/outrage-over-coronavirus-hospitals-for-the-political-elite-in-zimbabwe/> [accessed on 28 November 2020].

Karwangoro, A.(2020), 'Mazowe ZRP officers transferred over corruption', available at <https://zimorningpost.com/mazowe-zrp-officers-transferred-over-corruption/> [accessed on 27 November 2020].

Katongomara, A. (2018), 'ZACC operations under threat', available at <https://www.chronicle.co.zw/zacc-operations-under-threat/> [accessed on 27 November 2020].

Laiton, C. (2020), 'PG seeks forfeiture of Zimra official's assets' ,available at <https://www.newsday.co.zw/2020/01/pg-seeks-forfeiture-of-zimra-officials-assets/> [accessed on 16 August 2020].

Langa, V. (2019), 'Police chief Matanga admits Interpol snubbing them over exiled Mugabe ministers', available at <https://nehandaradio.com/2019/10/23/police-chief-matanga-admits-interpol-snubbing-them-over-exiled-mugabe-ministers/> [accessed on 1 September 2020].

Langa, V. (2017), 'Underfunding stifles Zacc operations', available at <https://www.newsday.co.zw/2017/04/underfunding-stifles-zaccoperations/> [accessed on 15 November 2020].

Machaya, P. (2019), 'Top NPA lawyer Chris Mutangadura ousted over Mugabe', available at links <https://www.zimlive.com/2019/02/09/top-npa-lawyer-chris-mutangadura-ousted-over-mugabe-links/> [accessed on 27 November 2020].

Madimure, J. (2020), 'President Deploys 5 Ambassadors', available at <https://www.herald.co.zw/just-in-president-deploys-5-ambassadors/> [accessed on 27 November 2020].

Madzianike, N. (2020), 'Just in: Court declares Pasi free man', available at <https://www.herald.co.zw/just-in-ex-zimra-commissioner-general-pasi-granted-application-for-refusal-of-further-remand/> [accessed on 27 November 2020].

Madzianike, N. (2020), 'NatPharm bosses arrested, appear in court',available at <https://www.herald.co.zw/natpharm-bosses-arrested-appear-in-court/>[accessed on 27 November 2020].

Madzianike, N. (2020), 'Updated: Mupfumira case to continue 'at all costs'', available at <https://www.herald.co.zw/just-in-mupfumira-trial-fails-to-kick-off/> [accessed on 20 December 2020].

Magaisa, A. (2016), 'The Last Dance Before Sunset', available at <http://alexmagaisa.com/big-saturday-read-last-dance-sunsetzimbabwes-political-elite-looting-state-citizens-can/> [accessed on 27 November 2020].

Magaisa, A. (2020), 'BSR Exclusive: Beneficiaries of the RBZ Farm Mechanisation Scheme', available at <https://www.bigsr.co.uk/single-post/2020/07/18/BSR-EXCLUSIVE-Beneficiaries-of-the-RBZ-Farm-Mechanisation-Scheme> [accessed on 28 November 2020].

Mahomed, F. (2020), 'Creeping clampdown on dissent: Beware Zimbabwe's cybersecurity bill', available at <https://www.dailymaverick.co.za/article/2020-09-24-creeping-clampdown-on-dissent-beware-zimbabwes-cybersecurity-bill/> [accessed on 28 November 2020].

Mahomed, F. (2020), 'Zimbabwean government lashes out at anti-corruption protesters with an iron fist', available at <https://www.dailymaverick.co.za/article/2020-08-02-zimbabwean-government-lashes-out-at-anti-corruption-protesters-with-an-iron-fist/> [accessed on 28 November 2020].

Mangwaya, M. (2020), 'TIZ Blasts lambasts impunity of corrupt officials', available at <https://www.newsday.co.zw/2020/10/tiz-lambasts-impunity-of-corrupt-officials/> [accessed on 27 November 2020].

Masakadza, B. (2020), 'Senior Cop, Prosecutor in Court', available at <https://dailynews.co.zw/senior-cop-prosecutor-in-court/> [accessed on 2 November 2020].

Mashaya, B. (2019), 'Zacc chair, Commissioner resign', available at <https://www.dailynews.co.zw/articles/2019/02/01/zacc-chairCommissioners-resign> [accessed on 27 November 2020].

Mathuthu, M. (2019), 'Zimbabwe arrests health minister in Covid-19 procurement scandal', available at <https://www.zimlive.com/2020/06/19/zimbabwe-arrests-health-minister-in-covid-19-procurement-scandal/> [accessed on 28 November 2020].

Matumbi, C. (n.d.), 'Combating corruption through effective criminal justice practices, international cooperation and engagement of civil society: the Zimbabwean perspective', available at https://www.unafei.or.jp/publications/pdf/RS_No107/No107_32_IP_Zimbabwe.pdf [accessed on 25 December 2020].

Matsaka, F. (2020), 'Scores of Zimbabwe protesters arrested, military in streets', available at https://www.washingtonpost.com/world/africa/empty-streets-in-zimbabwe-as-security-forces-thwart-protest/2020/07/31/cda13416-d309-11ea-826b-cc394d824e35_story.html [accessed on 28 November 2020].

Mhlanga, P. (2020), 'ZACC goes for broke', available at <https://businesstimes.co.zw/zacc-goes-for-broke/> [accessed on 19 November 2020].

Mpofu, M. (2019), 'Latest: President Emmerson Mnangagwa appoints new ZACC chairperson', available at <https://www.mysimbabwe.co.zw/news/43219-latest-president-emmersonmnangagwa-appoints-new-zacc-chairperson.html> [accessed on 10 November 2020].

Mupondo, R. (2019), 'Poor funding compromises Zacc independence', available at <https://www.newsday.co.zw/2019/11/poor-funding-compromises-zacc-independence/> [accessed on 27 November 2020].

Murwira, Z. (2020), 'ZACC arrests health minister', available at <https://www.herald.co.zw/zacc-arrests-health-minister/> [accessed on 27 November 2020].

Murwira, Z. (2020), 'Zacc commissioner faces corruption allegations', available at <https://www.herald.co.zw/zacc-commissioner-faces-corruption-allegations/> [accessed on 7 October 2020].

Mutasa, H. (2019), 'Zimbabwe lawyers demand independent judiciary to try protesters', available at <https://www.aljazeera.com/news/2019/01/zimbabwe-lawyers-demand-independent-judiciary-protesters-190129190115517.html> [accessed on 9 September 2020].

Mutsaka, F. (2020), 'Zimbabwean journalist released on bail after 6 weeks in jail', available at <https://www.dailyherald.com/article/20200902/news/309029932> [accessed on 3 September 2020].

Ncube, X. (2019), 'Cabinet approves AIPPA repeal', available at <https://www.newsday.co.zw/2019/02/cabinet-approves-aippa-repeal/> [accessed on 28 November 2020].

Ndebele, H. (2017), 'Nepotism rocks NSSA over recruitment process', available at <https://www.theindependent.co.zw/2017/10/27/nepotism-claims-rock-nssa-recruitment-process/> [accessed on 27 November 2020].

Ndoro, T. (2019), 'Justice at Last As Augustine Chihuri, Senior Police Officers Face Arrest for Abuse Of Office During Mugabe Days', available at <https://iharare.com/justice-at-last-as-augustine-chihuri-senior-police-officers-face-arrest-for-abuse-of-office-during-mugabe-days/> [accessed on 3 November 2020].

Ndoro, T. (2019), 'Prisca Mupfumira sitting pretty & receiving special treatment at Chikurubi? – ZACC denied entry to investigate', available at <https://iharare.com/zacc-denied-entry-to-investigate-mupfumira-prison/> [accessed on 3 February 2021].

Nehanda Radio (2010), 'Messy divorce exposes Minister Chombo's mega riches', available at <https://nehandaradio.com/2010/11/05/messy-divorce-exposes-minister-chombo%E2%80%99s-mega-riches/> [accessed on 27 November 2020].

Nemukuyu, D. (2015), 'Anti-Corruption Commission boss jailed', available at <http://www.herald.co.zw/anti-corruption-commission-boss-jailed/> [accessed on 27 November 2020].

Nemukuyu, D. (2016), 'Ex-ZACC boss loses vehicles', available at <https://www.herald.co.zw/ex-zacc-boss-loses-vehicles/> [accessed on 2 July 2020].

Nemukuyu, D. (2020), 'Corruption: Zimra official loses house', available at <https://www.herald.co.zw/corruption-zimra-official-loses-house/> [accessed on 28 November 2020].

NewZimbabwe.com (2018), 'Police promotions raise stink as favouritism, tribalism is alleged', available at <https://www.newzimbabwe.com/police-promotions-raise-stink-as-favouritism-tribalism-is-alleged/> [accessed on 27 November 2020].

Newzimbabwe.com (2020), 'Zimbabwe: Mnangagwa Links to Drax International Emerge, President Begged for \$60m From Dodgy Firm', available at <https://allafrica.com/stories/202006160462.html> [accessed on 27 November 2020].

NewzimbabweMail (2018), 'Obert Mpofu Refuses to Answer Questions on Missing \$15 Billion In Parly, Says He Will Not Be Presided Over by Temba Mliswa', available at <https://www.thezimbabwemail.com/parliament-parliament/obert-mpofu-refuses-answer-questions-missing-15-billion-parly-says-will-not-presided-temba-mliswa/> [accessed on 24 November 2020].

Nyarota, D. (2020), 'Mnangagwa's Special Anti-Corruption Unit Illegal', available at <https://263chat.com/mnangagwas-special-anti-corruption-unit-illegal/> [accessed on 17 November 2020].

Office of the President and Cabinet (2020), 'President Mnangagwa establishes a Special Anti-Corruption Unit', available at <http://www.theopc.gov.zw/index.php/303-president-mnangagwa-establishes-a-special-anti-corruption-unit> [accessed on 7 September 2020].

Pindula News (2019), 'If there's a crime here, it's ZACC's shocking involvement, Jonathan Moyo on Marry Chiwenga charge sheet', available at <https://news.pindula.co.zw/2019/12/15/if-theres-a-crime-here-its-zaccs-shocking-involvement-jonathan-moyo-on-marry-chiwenga-charge-sheet/> [accessed on 1 November 2020].

Popovich, A. (2020), 'Zimbabwe Anti-Corruption Commission Creates Whistleblowing App', available at <https://whistleblowersblog.org/2020/09/articles/global-whistleblowers/zimbabwe-anti-corruption-commission-creates-whistleblowing-app/> [accessed on 28 November 2020].

President and Fellows of Harvard College (2020), 'What Hopewell Chin'ono's Arrest Says about the Free Press in Zimbabwe', available at <https://niemanreports.org/articles/what-hopewell-chinonos-arrest-says-about-the-free-press-in-zimbabwe/> [accessed on 12 November 2020];

Razemba, F. (2019), 'UN anti-graft team in Zimbabwe', available at <https://www.chronicle.co.zw/un-anti-graft-team-in-zimbabwe/> [accessed on 2 July 2020].

Report Focus Ltd (2018), 'Obert Mpofu refuses to testify on the missing \$15 billion diamond revenue', available at <https://www.reportfocusnews.com/2018/02/22/obert-mpofu-refuses-testify-missing-15-billion-diamond-revenue/> [accessed on 26 November 2020].

Reporters Without Borders (2019), 'Page not yet turned on Mugabe era', available at <https://rsf.org/en/zimbabwe> [accessed on 3 February 2021].

Rupapa, T. (2016), 'Tomana arrested at court', available at <https://www.herald.co.zw/tomana-arrested-at-court/> [accessed on 2 July 2020].

SALC (2020), 'Statement condemning the re-arrest of Hopewell Chin'ono', available at <https://www.southernafricalitigationcentre.org/2020/11/04/statement-condemning-the-re-arrest-of-hopewell-chinono/> [accessed on 28 November 2020].

Share, F. (2018), 'Updated: President names, shames looters • Nearly \$1bn remains outstanding • Funds stashed in China, Botswana, SA', available at <https://www.herald.co.zw/president-mnangagwa-exposes-externalizers/> [accessed on 16 August 2020].

Start up Biz Zimbabwe (2019), 'Corruption in the Spotlight as ZACC resigns', available at <https://startupbiz.co.zw/corruption-in-the-spotlight-as-zacc-resigns/> [accessed on 27 November 2020].

The Herald (2020), 'Zimbabwe: Asset recovery - Zacc identifies u.s.\$7 billion cash, properties', available at <https://allafrica.com/stories/202002260692.html> [accessed on 28 November 2020].

Transparency International Zimbabwe (2020), 'Corruption risk Assessment in Management & Distribution of Social Protection Initiatives & Humanitarian Aid in Zimbabwe', available at

<https://www.tizim.org/2020/03/corruption-risks-in-the-management-and-distribution-of-social-protection-initiative-and-humanitarian-aid-in-zimbabwe/> [accessed on 28 November 2020].

United Nations Office on Drugs and Crime (2020), 'Signature and Ratification Status', available at <https://www.unodc.org/unodc/en/corruption/ratification-status.html> [accessed on 2 July 2020].

Zaba, F. (2019), 'Authorities should take public audit reports seriously', available at <https://www.theindependent.co.zw/2019/07/05/authorities-should-take-public-audit-reports-seriously/> [accessed on 3 February 2021].

Zimbabwe Human Rights Association (2017), 'ZANU-PF Orders civil servants to fund Mashonaland Central Rally', available at <http://kubatana.net/2017/09/08/zanu-pf-orders-civil-servants-fund-mash-central-rally/> [accessed on 27 November 2020].

Zimeye (2019), 'KemboMohadi sides with Matabeleland', available at <https://www.zimeye.net/2019/10/14/kembo-mohadi-sides-with-matabeleland/> [accessed on 27 November 2020].

Zimlive (2020), 'Interpol declines Zimbabwe requests to arrest former Mugabe ministers', available at <https://www.zimlive.com/2019/08/22/interpol-declines-zimbabwe-requests-to-arrest-former-mugabe-ministers/> [accessed on 28 November 2020].