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Visit to Zimbabwe

Report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, Alena Douhan*, **

Summary

The Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights undertook an official visit to Zimbabwe from 18 to 28 October 2021 to examine the impact of unilateral sanctions on the enjoyment of human rights in Zimbabwe and on people's right to development. She concludes that sanctions, including secondary sanctions, and different forms of overcompliance by foreign banks and companies have had a significant impact on the population and the Government, exacerbating pre-existing economic and humanitarian challenges. She recommends lifting unilateral sanctions in line with the principles of international law; avoiding de-risking policies and overcompliance in accordance with the due diligence rule; and engaging in meaningful structured discussions on political reform, the rule of law and human rights.

* Agreement was reached to publish the present report after the standard publication date owing to circumstances beyond the submitter's control.

** The summary of the report is being circulated in all official languages. The report itself, which is annexed to the summary, is being circulated in the language of submission only.

Annex

Report of the Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, Alena Douhan, on her visit to Zimbabwe

I. Introduction

1. The Special Rapporteur on the negative impact of unilateral coercive measures on the enjoyment of human rights, Alena Douhan, visited Zimbabwe from 18 to 28 October 2021 at the invitation of the Government. On 28 October, she presented her preliminary observations to the Government, followed by a press conference.[1]

2. During her visit, the Special Rapporteur met the President of Zimbabwe; the Speaker of Parliament; the Chief Justice; the Governor of the Reserve Bank of Zimbabwe; and the Chief Secretary to the President and Cabinet. She also met the Ministers of Foreign Affairs and International Trade; Justice, Legal and Parliamentary Affairs; Finance and Economic Development; Defence and War Veterans Affairs; Women Affairs, Community, Small and Medium Enterprises Development; Higher and Tertiary Education, Innovation, Science and Technology Development; Environment, Tourism and Hospitality Industry; Mines and Mining Development; Home Affairs and Cultural Heritage; Youth, Sports, Arts and Recreation; Information, Publicity and Broadcasting Services; Industry and Commerce; Local Government and Public Works; Energy and Power Development; Public Service, Labour and Social Welfare; Lands, Agriculture, Fisheries, Water, Climate and Rural Resettlement; Primary and Secondary Education; Transport and Infrastructural Development; and Health and Child Care. In addition, she met the Provincial Minister of Harare and with representatives of the Zimbabwe Human Rights Commission, the University of Zimbabwe, Warren Park secondary school and Sally Mugabe Central Hospital.

3. She also met the United Nations country team; members of political parties; civil society organizations; women's rights activists and human rights defenders; faith-based organizations; trade unions; businesses; small and medium-sized enterprises; employers' and bankers' associations; members of the diplomatic community; medical personnel; university professors; independent researchers; and school teachers. The Special Rapporteur also had the opportunity to visit Bulawayo and met its Provincial Minister and representatives of the private sector; the health sector; the school and higher education sector; as well as representatives of political parties. She also conducted visits to the National Railways of Zimbabwe and the Zimbabwe United Passenger Company, which allowed her to gather first-hand information on the impact of overcompliance with sanctions.

4. Before the visit, she issued an open call for contributions from relevant stakeholders.[2] The Special Rapporteur extends her gratitude to all these interlocutors who have generously offered their time, information, analysis, experiences and thoughts to help her understand in a short time what has proven to be a very complex situation.

5. Although she had the opportunity to meet many representatives of independent civil society organizations and human rights defenders, she notes with regret that a substantial number of non-governmental organizations (NGOs) and some other interlocutors failed to engage with the mandate, due both to various hateful and intimidating messages that appeared in social media and news outlets, and to an alleged fear of losing foreign donations.

6. The Special Rapporteur commends the warm welcome and the constructive and cooperative way in which the Government facilitated her visit, which enabled a frank and open dialogue. She expresses particular thanks to the Ministry of Foreign Affairs for its

[1] See https://www.ohchr.org/en/press-releases/2021/10/zimbabwe-expert-calls-lifting-unilateral-sanctions-urges-talks.

[2] See https://www.ohchr.org/en/calls-for-input/2021/country-visit-special-rapporteur-negative-impact-unilateral-coercive-measures.

efficient engagement with her office. She also thanks the United Nations Resident Coordinator Office for its support throughout the visit.

II. Country visit context

7. In December 2001, the United States of America enacted the Zimbabwe Democracy and Economic Recovery Act, which was amended in August 2018. It imposes restrictions on Zimbabwe regarding multilateral financing, unless it makes certain reforms. For over 20 years, the Act has mandated the United States to vote against extending loans, credit or guarantees to the Government of Zimbabwe, and against any cancellation or reduction of debt to the United States or any international financial institutions, including the International Monetary Fund (IMF), the World Bank and the African Development Bank. The Act allows one exception for a favourable vote on multilateral funding to meet basic human needs or for good governance.[3]

8. In March 2003, the United States introduced sanctions on 77 individuals, blocking property and interests in property of the individuals listed, and of any other person (legal or natural) determined to be associated, owned or controlled by the individuals included in the sanctions list. The United States expanded the list of individuals in November 2005; in July 2008, it broadly extended the sanctions to cover, inter alia, any senior official of the Government of Zimbabwe, spouse and dependent children, or anyone deemed to be supporting the Government.[4] The United States Office of Foreign Assets Control also designated various key entities, including two national banks.[5] Shortly after the constitutional referendum of 2013, the Office of Foreign Assets Control reauthorized certain bank transactions, and later de-listed two banks, in February 2016. The United States currently lists 83 individuals and 37 entities.

9. In February 2002, the European Union introduced “restrictive measures”, which included an arms embargo, the freezing of funds and assets, travel bans and prohibitions regarding equipment used for internal repression. The first European Union sanctions listed 79 individuals, including cabinet members and senior officials of Robert Mugabe’s Government, and any entities associated with them. It expanded the list in February 2004 and in 2011 to a peak of 163 individuals and 31 entities.[6] In March 2013, the European Union progressively suspended most of its sanctions until reaching zero active individual cases by February 2020. It also re-engaged with Zimbabwe under the Cotonou Agreement.

10. In March 2002, Switzerland banned the sale and transfer of arms and related materiel for internal repression, and imposed a financial flow and asset freeze on 20 individuals. It gradually expanded the list of individuals to include 203 physical persons and 40 entities by 2009.[7] In 2020, Switzerland joined the European Union in removing all listed individuals, while retaining the asset freeze on one entity and a prohibition on goods susceptible of being used for internal repression.

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[3] United States, Zimbabwe Democracy and Economic Recovery Act (Act No. S.494 of 2001 as amended by Act S.2779 of 2018). The 2001 Act also prescribed some bilateral assistance from the President of the United States to support Zimbabwe in its media and democratic reforms and the rule of law for the immediate 2002 period after the entry into force of the Act. See sect. 5 (b).

[4] United States, Executive Orders No. 13288, No. 13391 and No. 13469, on blocking property of persons undermining democratic processes or institutions in Zimbabwe.

[5] For example, the Agricultural Development Bank of Zimbabwe and the Infrastructure Development Bank of Zimbabwe. See United States Department of the Treasury, Zimbabwe designations 2008, available at https://home.treasury.gov/policy-issues/financial-sanctions/recent-actions/20080725.

[6] European Council Common Position of 18 February 2002 concerning restrictive measures against Zimbabwe (2002/145/CFSP); European Council Regulations (EC) No. 310/2002, No. 1345/2002 and No. 314/2004; and European Council Decision (EC) No. 2011/101/CFSP.

[7] Switzerland, Ordonnance instituant des mesures à l’encontre du Zimbabwe (946.209.2), amended on 2 March 2020.

11. In November 2002, Australia imposed an arms embargo, a travel ban, and an asset freeze and restrictions on provisions of assets,[8] which were eased in 2012 and 2013, following the constitutional referendum. It currently lists six individuals and one entity.[9]

12. In September 2008, Canada added its own sanctions programme by issuing an arms embargo, asset freeze and travel ban on 177 individuals, including their associates and family members, and entities owned or controlled by them. The sanctions programme also covered senior officials considered to undermine human rights and four entities.[10] In 2020, Canada indicated that it would keep sanctions in force until there were positive shifts in Zimbabwean policy that resulted in improvements in human rights, democracy, freedom and the rule of law.[11]

13. The United Kingdom of Great Britain and Northern Ireland imposed its own sanctions, including an arms embargo, travel ban and asset freeze, shortly after leaving the European Union. The list currently includes four individuals, who are also listed by the United States, and one entity.[12]

Secondary sanctions and overcompliance

14. Extraterritorial secondary sanctions and reported threats to and penalties imposed on banks in third countries for breach of sanctions regimes have fuelled de-risking policies and growing overcompliance, preventing the public and private sectors in Zimbabwe from conducting business efficiently. Numerous testimonies noted foreign companies and banks suspending business in Zimbabwe, divesting themselves of their interests and moving funds out of the country shortly after the Zimbabwe Democracy and Economic Recovery Act was enacted. Penalties imposed on national and international banks further aggravated de-risking and overcompliance, facilitating the departure of 87 correspondent banks from Zimbabwe. Currently, only a handful of entities are given permission to act as correspondents: reportedly six out of 27 commercial banks.

15. The Special Rapporteur also notes with concern the extended application of the United States legislation on the basis of payments in United States dollars (applicable to the majority of transactions), using correspondent banks related to or acting in one way or another in the United States, having stakeholders registered in the United States and other grounds. In particular, the Office of Foreign Assets Control imposed large fines up to $3.8 billion on various banks in Zimbabwe, and intercepted $4.1 million from a public agency focusing on industrial investments.

16. The situation is exacerbated by the perception of Zimbabwe as a whole as a designated country, creating reputational risks for Zimbabwean companies and nationals and impeding them from opening or holding bank accounts, which has reportedly occurred in Switzerland, the United Kingdom and the United States. It has also affected their ability to perform banking transactions, and transfer membership fees for both public and private actors. In addition, it limits access to credit and insurance. Banking services are also affected by delays, as transfers can be stalled for long periods or cancelled. Several stakeholders reported using intermediaries or third-country nationals to perform bank operations and avoid such impediments.

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[8] Reserve Bank of Australia, "Banking (Foreign Exchange) Regulations 1959 sanctions against Zimbabwe", 25 November 2002.

[9] Australia, consolidated sanctions list as of 11 November 2021. Available at https://www.dfat.gov.au/sites/default/files/regulation8_consolidated.xls.

[10] Canada, Special Economic Measures (Zimbabwe) Regulations SOR/2008-248.

[11] See https://www.canadainternational.gc.ca/zimbabwe/bilateral_relations_bilaterales/canada_zimbabwe.aspx?lang=eng.

[12] United Kingdom, The Zimbabwe (sanctions) (EU Exit) Regulations 2019. See also The Sanctions (EU Exit) (Miscellaneous Amendments) (No. 2 and 4, respectively) Regulations 2020. Available at https://www.legislation.gov.uk/uksi/2020/590/contents/made and https://www.legislation.gov.uk/uksi/2020/951/contents/made.

17. Stakeholders also reported impediments in engaging in other types of activity, in particular academic, cultural and sports-related cooperation, and the loss of donations because of real threats or hypothetical fear.

III. Impact of unilateral sanctions on public institutions: economic and humanitarian situation

A. General macroeconomic context

18. Zimbabwe has experienced an economic downturn since the mid-1990s due to the adverse impacts of the IMF economic structural adjustment policy,[13] climate-related droughts, economic mismanagement and civil unrest. In 1999, IMF and the World Bank suspended adjustment financing to Zimbabwe, restricting access to key developmental loans. In 2001, official development assistance reached a 20-year low of $160.2 million as external debt reached 2.485 per cent of the gross national income, a level not seen since the early 1980s. For Zimbabwe, lost revenues reportedly exceeded $42 billion from 2001 to 2019.[14]

19. Zimbabwe historically relied on foreign trade to sustain its economy. It last registered a trade surplus in 2000, at $155 million, representing approximately 74 per cent of its gross domestic product (GDP). Overall production increased 1.44 per cent in 2001 after a shortfall in previous years. However, sanctions targeted various entities in key productive sectors of the economy, including mining, manufacturing, tourism and agriculture, which made it challenging for Zimbabwe to rely on its trade and industry to promote growth. During the first decade under sanctions, the country's trade balance spiralled to -23.8 per cent, in 2010, and has stayed negative since then.

20. Sanctions facilitated deindustrialization, as key agriculture, mining and manufacturing companies were barred from selling their products in the United States and European Union markets. The economic contraction went from -3.1 per cent in 2000 to -17.7 per cent in 2008.[15] Thousands of workers were forced out of employment in the formal economy, and multiple local companies closed down. This nurtured the expansion of the informal sector as a method of resilience, estimated at 94.5 per cent in 2014 and 75.6 per cent in 2019.[16] Foreign direct investments were affected as investors avoided risks, given the negative perceptions about the economy and the country's governance. This led to increased unemployment, estimated at 94 per cent in the formal sector by the end of 2008,[17] and to a significant loss of qualified professionals. From 2000 to 2008, the gross national income per person fell by 35 per cent.[18] There was a significant loss of public revenue, which was critically undermined by consistently high inflation that surged from 56 per cent in 2000 to 599 per cent in 2003 and over 230 million per cent in 2008.[19] This fuelled the collapse of the public system and resulted in the inability of the Government to provide for essential services,

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[13] Deborah Potts and Chris Mutambirwa, "'Basics are now a luxury': perceptions of structural adjustment's impact on rural and urban areas in Zimbabwe", *Environment and Urbanization*, vol. 10, No. 1 (April 1998).

[14] Zimbabwe, Ministry of Foreign Affairs and International Trade, "Impact on Zimbabwe and the region of the unilateral sanctions imposed by the United States of America and the European Union", 15 October 2019.

[15] World Bank, Zimbabwe Trade Summary (2002). Available at https://wits.worldbank.org/CountryProfile/en/Country/ZWE/Year/2002/SummaryText. See also World Bank, data on GDP growth of Zimbabwe. Available at https://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG?end=2018&locations=ZW&start=1993.

[16] Zimbabwe National Statistics Agency, *2019 Labour Force and Child Labour Survey* (February 2020).

[17] According to the Office for the Coordination of Humanitarian Affairs as cited in Mail & Guardian, "Zim unemployment skyrockets", 29 January 2009.

[18] See https://data.worldbank.org/indicator/NY.GNP.PCAP.CD?locations=ZW.

[19] Chidochashe Munangagwa, "The Economic Decline of Zimbabwe", *The Gettysburg Economic Review*, vol. 3, 2009. See also Zimbabwe Economic Policy Analysis and Research Unit, *Measures to Enhance Zimbabwe's Fiscal Space*, discussion paper 01/10, October 2010; and https://www.dallasfed.org/~/media/documents/institute/annual/2011/annual11b.pdf.

with serious ramifications for people accessing essential livelihoods and humanitarian needs, including food, water and sanitation, education and other public services.

B. Humanitarian impact

21. Unilateral sanctions decimated the economic performance of the country, thereby aggravating the humanitarian situation and consequently adversely impacting access to basic rights, including to life, food, water and sanitation, health and education, and the rights of Zimbabwean residents, migrants and refugees.

22. Poverty has increased sharply as a result, undermining efforts to achieve Sustainable Development Goal 1, on ending poverty in all its forms everywhere. With the coronavirus disease (COVID-19) adding to the problem, a survey by the Zimbabwe National Statistics Agency and the United Nations Children's Fund showed that almost half of the population was in extreme poverty in 2020.[20]

C. Access to food

23. Agriculture has historically ensured rural livelihoods. It currently represents approximately 14–17 per cent of GDP and employs and provides income to approximately 60–70 per cent of the population. However, sanctions imposed on key farms and agricultural companies and the general decline of agricultural investments has resulted in poor production levels since the early 2000s, especially as regards cereals such as maize, sorghum, millet and others. While droughts, cyclones and other environmental hazards influenced the decrease in food production, unilateral coercive measures also had a determining impact.

24. Food insecurity has remained a key concern since 2001, both in terms of accessibility and affordability. The proportion of food insecure people increased from 29 per cent in 1995 to 58 per cent in 2003,[21] and measured 42 per cent in 2016, according to government estimates. It worsened further, to 8.6 million people or more than 60 per cent of the population, at the end of 2020. The estimated undernourishment of the population was 42.2 per cent in 2005, which increased to 51.3 per cent in 2017, resulting in the worst malnutrition rate for 15 years, with 30 per cent of the rural population requiring food assistance. In 2020, the food insecure population increased to 2.4 million people, up from 2.2 million in 2019, with global acute malnutrition levels increasing from 3.6 per cent in 2019 to 4.5 per cent in 2020.[22] In children under 5 years of age, stunting and severe wasting increased. In the period from 2000 to 2019, the prevalence of anaemia in pregnant women averaged 33.2 per cent.

25. Following her 2019 visit to Zimbabwe, the Special Rapporteur on the right to food identified sanctions to be among the key obstacles to enjoyment of the right to food. The agricultural sector's inability to borrow funds or perform bank operations have rendered it incapable of properly retooling, buying spare parts and reagents, maintaining equipment and infrastructure, or investing in better plant and machinery technology. Foreign partners are also reluctant to sell seeds, equipment and spare parts directly. The main agricultural bank of Zimbabwe, Agribank, could not finance the sector adequately with credits due to its listing under United States sanctions from 2003 to 2016.

26. Regarding the impact on the country's agricultural infrastructure and the ability of people to fulfil their right to food, current government data indicate a decline in the number of functional tractors to 6,000 in 2021, against a national requirement of 40,000. The lack of adequate supplies of vaccines and other essential drugs also impacted animal health and food

[20] United Nations Children's Fund, "Half of Zimbabweans faced extreme poverty in 2020 due to COVID-19: Rapid Poverty Income Consumption and Expenditure Survey (PICES)", 23 July 2021.

[21] Joyce Malaba, "Poverty measurement and gender: Zimbabwe's experience", December 2006.

[22] Zimbabwe Vulnerability Assessment Committee (ZimVAC), 2020 Urban Livelihoods Assessment. Available at https://fscluster.org/sites/default/files/documents/2020_urban_livelihoods_assessment_report.pdf. See also 2020 Rural Livelihoods Assessment. Available at https://fscluster.org/zimbabwe/document/2020-zimbabwe-vulnerability-assessment.

exports, as well as the ability to produce food autonomously and carry out adequate disease control measures. There were also reports of a general lack of cold storage infrastructure and a limited availability of adequate packaging to facilitate exports. Functional irrigation schemes served only 206,000 hectares due to inadequate maintenance and rehabilitation. Cereal and horticultural production declined significantly between 2000 and 2021.

27. Additional challenges in the agricultural sector appeared after sanctions were imposed on Belaruskali, the Belarusian producer of potash fertilizers that used to provide Zimbabwe with 100 per cent of its fertilizer needs. As noted by the Food and Agriculture Organization of the United Nations and the World Food Programme, fertilizers are at risk of becoming unavailable to farmers in Zimbabwe due to complicated logistics and costs related to travel, production and refining.

D. Access to water and sanitation

28. Unilateral sanctions also contribute to the deterioration of the water and sanitation infrastructure, resulting in the reduced accessibility of clean water and sanitation services for the majority of the population, in addition to a reduction of effective sewage systems and disposal, waste management and fire services. This has accelerated disease epidemics, such as cholera and typhoid (notably in 2008 and 2018) with an estimated combined death toll of over 3,000 people, and has placed more than 100,000 people at risk.[23] Significant challenges in maintaining and upgrading water and sewage treatment plants, and obstacles in the procurement of reagents and water chemicals and other equipment were reported.[24]

29. The Special Rapporteur was informed that for the vast majority of the population, clean drinking water, sanitation and related hygiene remained inaccessible. Reports indicate that the majority of local councils are only able to supply clean drinking water for eight hours a day, compared with 24 hours a day before the imposition of sanctions. Although public spending on water and sanitation has increased over time, it is estimated that less than half of the population currently has access to safe drinking water and sanitation services. Only 29.5 per cent of the population was able to access safe drinking water in 2020, compared with 33.2 per cent in 2002.[25] In 2019, 77.1 per cent of households lacked access to improved sources of clean water, with disparities in rural (67.9 per cent) and urban (97.3 per cent) areas.[26] According to the 2012 national population census, 25 per cent of households lacked access to toilets, with a higher prevalence of open defecation in rural areas. In 2019, national open defecation rate stood at 21.7 per cent in 2019, especially in rural areas, which improved from 44 per cent in 2014.[27]

30. In Bulawayo, numerous testimonies described how sanctions and overcompliance had crippled the local economy and public infrastructure, as industrial companies, which provided over 70 per cent of public revenue, either significantly reduced or completely discontinued production. Prior to sanctions, the local government was reportedly able to provide support to families and vulnerable communities after severe droughts and other erratic climate conditions affected food crops and access to water, particularly in rural areas. Outbreaks of diarrhoea and other waterborne diseases, rare before 2001, became more frequent as clean water reserves in the city's dams progressively dried up and the lack of reliable electricity made it difficult for households to rely on boiled water.[28] Sanctions and overcompliance obstructed access to credit for local companies and the local government was

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[23] Confidential submission to the mandate holder.

[24] Confidential submission to the mandate holder.

[25] World Bank, "People using safely managed drinking water services (% of population) – Zimbabwe". Available at https://data.worldbank.org/indicator/SH.H2O.SMDW.ZS?locations=ZW.

[26] United Nations Zimbabwe, *Zimbabwe United Nations Results Report 2020: Zimbabwe United Nations Development Framework (ZUNDAF) 2016–2021*.

[27] See https://www.unicef.org/zimbabwe/water-sanitation-and-hygiene-wash. See also *Zimbabwe United Nations Results Report 2020*.

[28] Confidential submission to the mandate holder. Significant challenges were also reported for the construction of water dams in other areas deemed critical, such as Harare, Chitungwiza and Gweru. See also Sibusisiwe Ndlovu, "Zimbabwe: World Vision responds to outbreak of waterborne diseases amidst drought", 30 October 2007.

no longer able to borrow funds for water infrastructure. The local government noted that over the past decade, waterborne disease outbreaks occurred during almost every rainy season, infecting thousands and killing hundreds.

E. Access to health

31. In general, the provision of primary health care is delegated to municipal councils through polyclinics and rural health centres, which focus on maternal, neonatal and child health. Prior to sanctions, these facilities were, to some extent, supplied with medicines, ambulances and qualified personnel. In the 1990s, it was estimated that 85 per cent of the population had access to health care.[29]

32. The structural economic and social challenges inherited from the late 1990s were aggravated by unilateral sanctions and the isolation of the country, especially during the first decade under sanctions, exacerbated by the consequences of overcompliance. As a result, the public health system collapsed. Total health expenditure fell from 10.8 per cent of GDP in 1996 to an average of 7 per cent to 8 per cent in the period from 2005 through 2013. Vacancy rates in the health sector were consistently high throughout the period under sanctions, reaching 69 per cent for doctors; 61 per cent for environmental health technicians; over 80 per cent for midwives; 62 per cent for nursing tutors; over 63 per cent for medical school teachers; and over 50 per cent for other health personnel, including pharmacy, radiology and laboratory services.[30] Recent data on vacancy rates indicate figures as high as 89 per cent for midwives, 64 per cent for government medical officers and 49 per cent for nursing tutors. Most provinces have less than 10 health professionals per 10,000 people.

33. Official data evidenced a steady decline in the country's main health indicators combined with periods of stagnation. Demographic health surveys showed trends in child morbidity and mortality rates generally declining since 1995, especially with regard to infants and children under 5 years of age.[31] The Zimbabwe National Health Strategy 2009–2013 identified a high prevalence of mortality among infants and children under 5 years of age, with rates rising from 53 and 77 per 1,000 live births, respectively, in 1994, to 60 and 86 in 2009. In 2014, official health data continued to register unacceptable child mortality levels, mainly among infants and children under 5 years of age, with a rate of 29 and 75 per 1,000 live births, respectively. Maternal mortality ratios also deteriorated from 2000 to 2010, registering a peak in 686 deaths per 100,000 live births in 2004.[32] Current levels improved from 960 maternal deaths per 100,000 live births in 2010–2011 to 614 in 2014, albeit below levels in sub-Saharan Africa and far from the Sustainable Development Goal target of less than 70 maternal deaths per 100,000 live births by 2030. Skilled labour support at birth also declined, as did institutional delivery of health support. Overall life expectancy also fell dramatically, from 63 years in 1988 to 43 years in 2005–2006, until gradually improving to 61 years.[33]

34. Disease-related mortalities have remained more or less stagnant.[34] For over 20 years, the leading cause of death in the country has been HIV/AIDS; in 2019, other major causes were tuberculosis and lower respiratory infections, and neonatal conditions.[35] Nonetheless, HIV prevalence and AIDS-related deaths significantly declined from 2010 to 2020.[36]

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[29] *The National Health Strategy for Zimbabwe 2016–2020*.

[30] *The National Health Strategy for Zimbabwe (2009–2013)*.

[31] See Zimbabwe Demographic Health Surveys 1994, 1999 and 2005–2006; and World Health Organization Zimbabwe, *Humanitarian Assistance and Recovery Programme (Harp): Rapid Needs Assessment for the Health Sector in Zimbabwe* (May 2002).

[32] World Bank, "Maternal mortality ratio (modeled estimate, per 100,000 live births) – Zimbabwe". Available at https://data.worldbank.org/indicator/SH.STA.MMRT?locations=ZW.

[33] *The National Health Strategy for Zimbabwe (2009–2013)*. In 2015, the number of births attended by skilled personnel increased to 78.1 per cent.

[34] Institute for Health Metrics and Evaluation, *GBD Profile: Zimbabwe*, 2011.

[35] World Health Organization, *Global health estimates: Leading causes of death*.

[36] AIDSinfo, *Country factsheets: Zimbabwe*.

35. Additionally, stocks of medicines, vaccines and other essential drugs have been routinely deficient throughout the period[37] while about 70 per cent of essential medicines are manufactured in third countries, especially in India. To meet the demand, the Special Rapporteur was informed that most hospitals have pharmaceutical manufacturing units for compounding simple formulations such as glycerine-ichthammol, gentian violet and silver sulfadiazine cream. In 2002, WHO reported that 73 per cent of essential drug stocks in health facilities located in peripheral areas were severely depleted. The trend continued through 2008, with reductions in stocks of essential drugs and vaccines ranging between 29 per cent and 58 per cent for vital items and 22 per cent and 36 per cent for all essential categories of items under the 2008 essential medicines list. With hyperinflation and the lack of foreign reserves, the availability of essential drugs remained deficient. In 2014, only 42 per cent of them were reportedly available in hospitals; injectable antibiotics were the least available, at 31 per cent.[38]

36. The inability of the Government to secure credits to rehabilitate, maintain and modernize infrastructure, and buy equipment and spare parts, along with supply-chain disruptions and transaction costs, have resulted in a sharp decline in the quality and accessibility of health care in the public sector, which accounts for more than 65 per cent of health-care services provided. Up to 80 per cent of public health expenditure was reportedly dedicated to salaries for health personnel[39] and running costs, while most foreign aid was channelled to projects managed by NGOs and United Nations agencies. Following periods of hyperinflation, public spending on health care generally increased, peaking at 8 per cent of government expenditure in 2012, albeit below the 15 per cent of GDP committed in the Abuja Declaration. Foreign health aid also increased during such periods. In addition, official development assistance levels increased significantly from roughly $278 million in 2006 to $1.002 billion in 2012. In 2017, a survey in the province of Harare highlighted that the rate of availability of essential medicines was 80 per cent, coinciding with national estimates. The Special Rapporteur was informed that the number of medicines on the Government-guaranteed list of life-saving medicines included only 50 types in 2021.

37. The lack of credits and low revenues have prevented Zimbabwe from developing and extending its medical system to guarantee its overall accessibility. While infants are guaranteed free access to medical care, a substantial number of adults are unable to pay the relevant fees.

F. Access to education

38. The loss of State revenue and the cumulative impact of overcompliance measures have directly impacted the delivery of quality education. Numerous testimonies explained the challenges faced by teachers and school staff related to reporting to work, due to transportation and accommodation costs, which contribute to the high vacancy rates in the sector.[40] Lack of funding and various impediments to buying school material, uniforms, computers and other technology due to zero-risk policies by companies have also impeded the achievement of Sustainable Development Goal 4, on quality education.

39. The average dropout rate increased from 6 per cent in 2000 to 9 per cent in 2005 for grades 1 to 6, with boys accounting for the majority of those who dropped out of school prematurely. In 2009, the primary school completion rate stood at 82.4 per cent.[41] The completion rate for grade 7 declined from 72 per cent in 2001 to 68 per cent in 2006.[42] More recent data indicate a completion rate for primary school of 77.6 per cent in 2018, compared with a 63.1 per cent rate for secondary schools. In 2011, financial reasons accounted for 59

[37] Amos Marume and others, "Price and availability survey of essential medicines in the Harare province, Zimbabwe", *Central African Journal of Medicine*, vol. 63, Nos. 7–9 (2018).

[38] *The National Health Strategy for Zimbabwe 2016–2020*.

[39] *The National Health Strategy for Zimbabwe 2016–2020*.

[40] Lorraine Muromo, "Zim requires 90k new teachers: unions", 2 December 2021.

[41] *Zimbabwe 2012: Millennium Development Goals Progress Report*.

[42] *Zimbabwe Millennium Development Goals: 2000–2007 Mid-Term Progress Report*.

per cent of primary school dropouts and 72.9 per cent of secondary school dropouts.[43] In 2020, the main reasons for dropping out of school were absconding (45.1 per cent) and financial reasons (32.9 per cent).[44]

40. In 2018, 93 per cent of available funds were to be allocated to employment costs. In 2019, the majority (51.8 per cent) of teachers and staff in the education sector were underemployed.[45] In Bulawayo, it was reported that school fees had continued to increase over the years through the Basic Education Assistance Module, part of the statewide Enhanced Social Protection Programme, which was designed to support vulnerable children in accessing basic education. Consequently, increasing costs had implications for assistance to vulnerable primary school students, as they often receive only one hot meal a day. In August 2021, over 15,000 students were assisted with fees.

41. Various forms of overcompliance with sanctions have affected all education levels (primary, secondary and tertiary), including impediments for staff, professors and researchers in seeking grants or paying membership fees in professional associations. Numerous testimonies highlighted various challenges in buying computers, books and other school materials due to overcompliance by companies and correspondent banks. Donor support for statewide education initiatives also decreased. With the onset of the COVID-19 pandemic, the United Nations estimated that over 4.6 million children lost access to education and social protection services provided in schools.[46] At the tertiary level, various interlocutors noted obstacles encountered in academic cooperation projects, problems in receiving payments for work done abroad, and their ineligibility for most research grants due to their Zimbabwean nationality. High dropout rates of university students unable to pay tuition fees were also reported. In 2018, Zimbabwe continued registering severe shortages of critical skills.[47]

42. Zimbabwe has made efforts to improve access to quality education and to achieve Sustainable Development Goal 4 by 2030. Reforms undertaken in the education sector from 1990 to 2001 reportedly resulted in a dramatic increase in the number of trained teachers and allowed Zimbabwe to approach universal access to primary education, in line with Millennium Development Goal 2.[48] The country also experienced a phenomenal increase in enrolment rates, with a 198 per cent increase from 1979 to 2006. The Special Rapporteur commends the efforts of the Government and the international community to achieve the Sustainable Development Goals. She notes the implementation of the 2004 early childhood development policy, which improved access to education for preschool children.

43. According to the World Bank, about 25.1 per cent of the population of Zimbabwe used the Internet in 2019. The sharp rise in usage seen in the period 2009–2015 has slowed considerably, with hardly any increase in 2019. This contrasts with an accelerating expansion of the Internet infrastructure since 2016, as measured by secure servers.

G. Migrants and refugees

44. The Special Rapporteur notes that while unilateral sanctions and overcompliance with sanctions have undoubtedly contributed to irregular movements of people, sanctioning States have generally failed to protect irregular migrants and refugees fleeing from misery and lack of opportunity.

45. Numerous Zimbabwean migrants and refugees were reported to engage in covert and often dangerous journeys to western and neighbouring countries, living in substandard conditions and being subjected to forced labour and servitude, forced prostitution and trafficking in persons. Some submissions allege that a substantial percentage of women and girls involved in prostitution in South Africa may be nationals of Zimbabwe.

[43] *Zimbabwe 2012: Millennium Development Goals Progress Report*.
[44] *Zimbabwe Progress Review Report of Sustainable Development Goals (SDGs)* (December 2020).
[45] Zimbabwe National Statistics Agency, *2019 Labour Force and Child Labour Survey*.
[46] *Zimbabwe United Nations Results Report 2020*.
[47] Zimbabwe, *2018 National Critical Skills Audit Report*.
[48] *Zimbabwe Millennium Development Goals: 2000–2007 Mid-Term Progress Report*.

H. Employment

46. As a result of the designation of government cabinet members and entities owned or controlled by foreign banks and companies, as well as other senior government members or persons considered "politically exposed", such banks and companies are unwilling to engage with the public sector as a whole. The lack of competitive public sector salaries has led to high unemployment and the loss of qualified personnel – including medical doctors and health professionals, engineers, teachers, judges, and members of the police and security forces – with vacancy rates reported at 30 to 50 per cent. Additionally, this has made it challenging for government authorities to rely on resources to develop, maintain and rehabilitate infrastructure, and to buy equipment, spare parts, reagents and other technology across all public sectors. Both the public and private sectors have had to rely on the use of mediating companies and banks, resulting in higher costs of goods and transactions, lower levels of accountability and transparency, and an increased risk of corruption and money-laundering.

47. The country's economic collapse affected the labour market, leading to company closures and retrenchments of workers, affecting over 610,000 people from 2005 to 2020. A significant portion of these retrenchments include agricultural, mining and manufacturing workers, which currently have various entities on the United States sanctions list.[49] In 2004, unemployment reached high levels in agriculture, manufacturing and services (i.e. restaurants and hotels). In the public sector, vacancy rates reached unacceptable levels for professions providing essential public services.[50]

48. Zimbabwe has experienced a serious loss of qualified personnel since the late 1990s, including doctors, nurses, pharmacists, engineers, scientists, researchers, educators and university professors. Although precise skilled migration figures are scattered or unavailable, brain drain surveys conducted in Zimbabwe and the southern African region revealed that close to half a million qualified professionals were located in diasporas in third countries.[51] The health sector continues to bear most of the brunt of the brain drain. Zimbabwe has historically registered low doctor-patient ratios, moving from a low of 0.057 doctors per 1,000 people in 2001 to the most recent estimates of 0.21 doctors per 1,000 people,[52] which is significantly below the WHO recommended average of 1 doctor per 1,000 people.[53]

I. Critical infrastructure

49. Unilateral sanctions and overcompliance also facilitated the collapse of public transportation and the network of roads, railways and airports. For many years, Zimbabwe has been unable to properly rehabilitate transportation infrastructure and buy material equipment, reagents and spare parts, which has compromised the safety and reliability of transport systems. In Bulawayo, prior to sanctions, the National Railways of Zimbabwe mainly relied on General Motors as its main supplier. Although the National Railways of

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[49] Zimbabwe National Statistics Agency, *Labour Force and Child Labour Surveys* for 2004, 2011, 2014 and 2019. Available at https://www.zimstat.co.zw/employment-statistics/.

[50] Zimbabwe National Statistics Agency, *2019 Labour Force and Child Labour Survey*, p. 183.

[51] C. J. Chetsanga, *An Analysis of the Cause and Effect of the Brain Drain in Zimbabwe* (Harare, Scientific and Industrial Research and Development Centre, 2003); Abel Chikanda, "Nurse migration from Zimbabwe: analysis of recent trends and impacts", *Nursing Inquiry*, vol. 12, No. 3 (September 2005); and Daniel Tevera and Jonathan Crush, "Discontent and departure: attitudes of skilled Zimbabweans towards emigration" in *Zimbabwe's Exodus Crisis, Migration, Survival*, Jonathan Crush and Daniel Tevera, eds. (Cape Town, Southern African Migration Programme; Ottawa, International Development Research Centre, 2010).

[52] World Bank, "Physicians (per 1,000 people) – Zimbabwe". Available at https://data.worldbank.org/indicator/SH.MED.PHYS.ZS?locations=ZW.

[53] World Health Organization, "SDGs target 3.c – health workforce: substantially increase health financing and the recruitment, development, training and retention of the health workforce in developing countries, especially in least developed countries and small island developing States". Available at https://www.who.int/data/gho/data/themes/topics/indicator-groups/indicator-group-details/GHO/sdg-target-3.c-health-workforce.

Zimbabwe was not specifically listed in sanctions regimes, its suppliers suspended business shortly after sanctions were imposed. The National Railways was reportedly determined to be “owned or controlled” by the members of Government responsible for transportation, who were listed by the United States and the European Union. The National Railways experienced a sharp decline in serviceable rolling stock from 12 million metric tons in the late 1990s to below the current 2.5 million metric tons, and it retrenched 5,200 workers as a result. Since sanctions were imposed, the National Railways has been reportedly unable to access any meaningful lines of credit in either the United States or the European Union. The Special Rapporteur was informed that to counter the negative impact of sanctions, measures had been undertaken with third countries to exchange spare parts and other equipment for technical training and capacity-building. The loss of State revenue has also led to the dangerous spread of potholes and the state of dilapidation of the roads and highways. In 2017, the Government declared the road network to be in a state of disaster, and various self-funding resilience initiatives were launched. In 2021, the Government announced its Emergency Road Rehabilitation Programme worth $400 million.

50. The Special Rapporteur was informed of the high impact of unilateral sanctions in the energy sector. Reported challenges included obsolete technology and poor investment levels, impediments in securing payment transactions for raw materials, spare parts, reagents and other equipment, and impediments in accessing credit. According to official data, the capacity to generate electricity is currently less than 1,200 MW of 2,300 MW needed, against a capacity of 2,000 MW in the year 2000. This has led to increased reliance on electricity imports, restricted power generation for economic activity, and a reported accumulation of debt estimated at $133 million. The overall energy deficit has direct implications for street lighting and private households, as load shedding is reported across the country. In Bulawayo, the Special Rapporteur was informed that its thermal power station operates at less than 20 per cent of capacity given its obsolete state. As energy is deficient and expensive, vandalism, theft of equipment and extraction of petrol were reported.

51. It is estimated that at least 38 per cent of the population lacks access to the Internet. The Government is unable to procure information and communication technology equipment, software and spare parts, or access credit to invest in infrastructure and innovation technologies. Serious shortages of qualified personnel are also a problem, as the Government is unable to adequately obtain innovation technologies to secure access to health-care tools, including for the monitoring of COVID-19 prevention.

52. The lack of adequate financing for environmental programmes adversely affected the resilience of Zimbabwe to address the impact of climate change and sustain agricultural production and mitigate food insecurity, malnutrition and poverty levels. The conservation and protection of animal wildlife through Zimparks reportedly declined with less funds available. It was also reported that a facility programme worth $2 million failed to materialize because the Government could not secure the funds due to overcompliance. Another example concerns an animal conservation effort involving the organization Canada’s Accredited Zoos and Aquariums, which allocated funds to participating African countries except for Zimbabwe, as the German bank KFW blocked funding due to overcompliance. Moreover, the voting rights of Zimbabwe in different multilateral environmental agencies have been affected due to the inability to pay membership fees.

53. Access to identification documents was also a challenge. The Government reported a backlog of approximately 500,000 identification documents because of the inability to secure the right equipment and because of supply-chain disruptions due to the refusal of companies to cooperate with governmental institutions, citing sanctions. Challenges in procuring passports certified by the International Civil Aviation Organization were also reported, owing to overcompliance, as 90 per cent are exported from third countries. The lack of access to identification documents has a direct impact on the delivery of social and health services, as well as the management of crime. The smuggling of passports is also increasingly being reported, as cross-border migration flows intensify the demand for passports.

54. The high levels of unemployment and loss of qualified personnel in the public sector also had ramifications on crime and the rule of law, as public institutions faced a general lack of judges, court staff, police, prosecutors, prison officials and lawyers. According to official data, crime related to narcotic drugs, robberies, theft, illegal mining activities, smuggling and

other activities spiralled from 149,834 reported cases in the period 1987 to 1999 to 378,474 cases in the period 2011 to 2020.[54] Due to inadequate financial and material resources, including police vehicles, helicopters and other equipment, law enforcement agencies were reportedly unable to ensure operational effectiveness to address crime or respond to emergencies.

55. The Special Rapporteur has been informed of the negative impact of unilateral sanctions and overcompliance on the functioning of public institutions, including the judiciary. In Transparency International’s corruption perceptions index, Zimbabwe dropped in ranking, moving from 45th out of 99 countries in 1999 to 157th out of 180 countries in 2020.

56. The loss of public revenue directly impacted the ability of the judiciary to ensure the regular payment of salaries to judges and staff or to offer competitive remuneration packages. Freezes in court recruitment and the inability to invest in professional development further weakened the quality of justice and the ability to meet the caseload demand.

57. The lack of funding also impaired the building of new courts, the repairing and maintenance of judicial infrastructure, and the provision of adequate equipment and new information technologies. The Special Rapporteur was informed that numerous court buildings required urgent maintenance. The Government has been unable to fund rehabilitation plans or buy buildings that better serve its needs due to impediments in accessing foreign support and generating public revenue. In rural areas, unilateral sanctions also affected the functioning of circuit courts and hampered access to justice.

58. Access to legal aid was also reported as a key challenge, as legal aid clinics are unable to meet the current demand due to lack of resources, and the delivery of justice entails high costs of litigation and representation. Additionally, lawyers are reportedly reluctant to work pro bono and provide free legal aid given the costs of litigation, resulting in few cases being taken up. Unable to assume the costs, many people in need of justice resort to alternative methods of litigation through “self-help”, representing themselves in magistrates’ court to circumvent the costs. However, their lack of expertise and the requirement of impartiality by the judiciary is correlated to their ability to access justice adequately, including in corruption cases when investigations were not completed due to the insufficiency of resources.

59. The COVID-19 pandemic significantly reduced court operations. The judiciary has been unable to hold virtual hearings or ensure electronic administration of operations, while access to the Internet is limited, especially in rural areas. The Special Rapporteur commends the efforts of the Judicial Service Commission to introduce an integrated electronic case management system to reduce the backlog of cases, reduce litigation costs and improve accountability. She also commends further efforts to establish and ensure the proper functioning of specialized anti-corruption courts and the magistrates’ anti-corruption court to address endemic corruption, despite challenges in funding and limited services during the COVID-19 pandemic.

IV. International cooperation and humanitarian aid

60. The Special Rapporteur commends assistance received from the international donor community. She wishes to recall that in 2001, official development assistance allocated to Zimbabwe dropped to historically low levels.[55] As western humanitarian and development aid gradually declined, the country also experienced a cascade of withdrawals of private businesses. Zimbabwe was thus abandoned to its own mercy, unable to access international aid and financing for many years, and expelled from the global financial market. This had direct implications for people in Zimbabwe, especially those in vulnerable situations, including women, children, older persons, persons with disabilities and those in extreme poverty.

[54] Confidential submission to the mandate holder; and Zimbabwe National Statistics Agency.

[55] World Bank, “Net official development assistance and official aid received, current US$ – Zimbabwe”. Available at https://data.worldbank.org/indicator/DT.ODA.ALLD.CD?locations=ZW.

61. In the early 2000s, bilateral support for agricultural development was discontinued, as exemplified by the decision of the Danish International Development Agency to suspend its agricultural support programme in 2001, which reportedly undermined the development of irrigation schemes.[56] Similarly, multilateral support from the International Fund for Agricultural Development was also suspended in 2002 and 2003, owing to lack of payment of subscription fees. The disbursement of funds for agriculture and water and irrigation projects was thus suspended.

62. During the initial period under sanctions, development cooperation funding for health and water and sanitation projects reportedly ranged from limited to non-existent, as donors disengaged from the country. Nonetheless, different international humanitarian efforts have been undertaken to help remedy water shortages and the lack of adequate sanitation services by the donor community, including United Nations agencies, civil society and bilateral donor States. The Special Rapporteur also welcomes the African Development Bank's funding to rehabilitate water and sanitation infrastructure through the Zimbabwe Multi-Donor Trust Fund.[57] In 2021, it is reported that the Danish International Development Agency withdrew $36.1 million in funding for various social programmes, which aggravated support for health, water and sanitation.

63. The Special Rapporteur notes that international funding support and credit lines have been generally limited to critical humanitarian concerns, such as health epidemics or weather-related disasters, while development projects are generally given lesser consideration. Twelve development projects that were approved for implementation via United Nations institutions during the period 2016–2021 have reportedly been cancelled because of the impossibility of attracting donor support due to the fear of sanctions.

64. The Special Rapporteur has also been advised that the delivery of international aid has been generally channelled through civil society and United Nations agencies. At the same time, she was informed about the tendency of donors to make support contingent upon engaging in political issues instead of core humanitarian work. During the visit, the Special Rapporteur was informed that many NGOs operating in Zimbabwe refused to engage with her or attend stakeholder consultations that she convened, owing to fear of reprisals by their donors.

V. Assessment of the legal basis for the imposition of sanctions

65. The Special Rapporteur stresses that under international law, unilateral measures without or beyond authorization of the Security Council may only be taken when they comply with States' international legal obligations (retortion measures) or in the course of countermeasures in accordance with the law of international responsibility: to be applied against States for violations of international legal norms, to aim to restore the fulfilment of international obligations, to be proportional to the breach occurred, to be necessary and to not violate fundamental human rights.

66. Unilateral sanctions imposed against natural and legal persons in Zimbabwe, secondary sanctions and extensive overcompliance by banks and third-country companies raise serious concerns about their correspondence with international legal standards.

67. In particular, while recognizing that States may freely vote in international organizations in line with their foreign policies, the Special Rapporteur notes that instructions of the Zimbabwe Democracy and Economic Recovery Act to the United States executive directors of international financial institutions to oppose extending any loan, credit or guarantee to the Government of Zimbabwe, or to cancel or reduce debts owed by the Government of Zimbabwe to the United States or any international financial institution unless

[56] Vittoria Moretti, "Zimbabwe in dubious battle: the unexpected consequences of western sanctions", Observatoire de l'Afrique australe et des Grands Lacs, 2017. Available at https://www.defense.gouv.fr/dgris/soutien-a-recherche/etudes-externalisees/observatoire-lafrique-australe-grands-lacs.

[57] African Development Bank Group, Zimbabwe. See https://www.afdb.org/en/news-keywords/zimbabwe.

the President certifies otherwise, do not correspond to the purposes of article 1 (i)–(iii) of the articles of agreement of IMF, which include to promote international monetary cooperation; to facilitate the expansion and balanced growth of international trade, and to contribute thereby to the promotion and maintenance of high levels of employment and real income and to the development of the productive resources of all members as primary objectives of economic policy; and to promote exchange stability, and to maintain orderly exchange arrangements among members. This approach turns ad hoc decisions into nearly automatic denials, especially in view of the possibility of the United States blocking the decisions of IMF.

68. The Special Rapporteur considers that the state of national emergency announced by the Government of the United States on 7 March 2003 in its Executive Order 13288 as the ground for introducing sanctions against Zimbabwe, and repeatedly extended, does not correspond to the requirements of article 4 of the International Covenant on Civil and Political Rights, such as the existence of a threat to the life of the nation, the limiting of measures to the exigencies of the situation, a limited duration, and the absence of discrimination, as referred to in the communication of human rights experts of 29 January 2021.[58]

69. The Special Rapporteur is concerned that existing unilateral targeted sanctions as a punitive action violate, at the very least, obligations arising from universal and regional human rights instruments, many of which have a peremptory character, including procedural guarantees and the presumption of innocence with a view that the grounds for their introduction do not constitute, for the most part, international crimes or comply with the grounds for universal criminal jurisdiction. The designation of family members of listed individuals contradicts the prohibition on punishment for activity that does not constitute a criminal offence and constitutes collective punishment prohibited by international human rights law.

70. The Special Rapporteur underlines that the listing of the majority of high-ranking State officials, and the possibility of designating property or companies that they own or control, affect nearly all economic sectors. Imposing high fines on companies and banks for dealing with designated individuals or the property those individuals control, based on payments in United States dollars, results in increasing reputational risks and de-risking by the United States and third-country nationals or companies as part of overcompliance.

71. The Special Rapporteur recalls that “targeted sanctions” cannot, in practice, be isolated from the negative consequences on Zimbabweans of secondary sanctions, civil and criminal penalties for circumvention of sanctions regimes, de-risking policies and overcompliance. The cumulative effect of these is an important factor undermining the capacity of the Government of Zimbabwe to exercise its duty to maintain the functioning of critical infrastructure, to achieve the Sustainable Development Goals and to ensure the enjoyment of fundamental human rights.

72. The Special Rapporteur underlines that applying extraterritorial jurisdiction to nationals and companies of third States for cooperation with the public authorities, nationals and companies of Zimbabwe, and alleged threats to such third-State parties, is not justified under international law and increases the risks of overcompliance with sanctions.

73. The Special Rapporteur stresses the inadmissibility of applying sanctions extraterritorially by using payments in United States dollars as a ground for expanding jurisdiction.

VI. Conclusions

74. **Due to the lengthy period of imposition of unilateral sanctions, it is complicated to identify their exact impact on the situation in the country, as it is affected by a vast number of elements. Unilateral sanctions, secondary sanctions, de-risking policies and**

[58] Communication USA 5/2021. Available at https://spcommreports.ohchr.org/TMResultsBase/DownLoadPublicCommunicationFile?gId=25879.

overcompliance in their complexity have exacerbated the pre-existing economic and humanitarian crisis, affecting a broad scope of human rights and impeding the achievement of the Sustainable Development Goals.

75. **As a result of the designation of senior State officials and companies owned or controlled by them, foreign companies and banks are unwilling to do business with the public sector of Zimbabwe, preventing the Government from getting revenue for the exercise of its public functions and provision of essential services, resulting in the violation of labour and social rights of people involved in the public sector, whose salaries are reported to be much lower than in the private sphere. This has led to rising unemployment, especially among the most qualified professionals, including engineers, doctors, teachers, university professors, judges and police officers.**

76. **Unilateral sanctions have also prevented the Government from using resources to develop and maintain essential infrastructure, disaster response plans and social support programmes, which has a devastating effect on the whole population of Zimbabwe, especially those in extreme poverty, women, young people, children, medical workers and people with disabilities or life-threatening or chronic diseases, particularly in rural areas. Low salaries, unemployment and growing involvement in the informal economy result in migration to neighbouring countries and an increase in poverty, criminal activities, corruption, prostitution, trafficking in persons, sexual exploitation and drug abuse, especially among the most vulnerable, including women, young people and children.**

77. **The stated readiness to impose secondary sanctions, and criminal and civil penalties against natural and legal persons circumventing unilateral sanctions regimes, and the imposition of high fines on Zimbabwean banks have resulted in Zimbabwe being qualified as a high-risk country, the adoption of de-risking policies and the departure of 87 correspondent banks from Zimbabwe. Overcompliance by third-country banks and private companies has resulted in growing problems in transferring or receiving money when natural or legal persons of Zimbabwe are involved, including freezing money in Zimbabweans' bank accounts, closing long-established bank accounts, extending the length and costs of bank transfers, and making it necessary to do transactions via third-country nationals.**

78. **Unilateral sanctions against natural and legal persons of Zimbabwe, in conjunction with secondary sanctions and overcompliance, are exacerbating the economic and humanitarian crisis, forcing the Government of Zimbabwe, banks, public institutions, private companies and individuals to look for alternative ways to participate in international trade by involving third parties, using alternative informal non-transparent mechanisms of trade and payments, thus adding to corruption rather than suppressing it. Such sanctions also result in preventing the participation of Zimbabwe and its people in international cooperation, adding to the isolation of the country, impeding the country's achievement of the Sustainable Development Goals, and undermining the right to development of the people of Zimbabwe.**

79. **Preventing Zimbabwe from participating in international cooperation, by impeding its ability to pay membership fees for international organizations, or from participating in interparliamentary cooperation, and preventing its scholars, sportspersons and artists from participating in international competitions isolates Zimbabwe from international cooperation and prevents the country from fulfilling its right to development.**

80. **The Special Rapporteur notes with concern that due to the unavailability of new machinery and spare parts, the emigration of competent staff and the unavailability of financial resources, the people of Zimbabwe have limited access to public transportation, electricity, water and health care, affecting economic and social rights and the rights to health and to life. These issues also impede access to safe drinking water and sanitation, resulting in increasing risks of cholera, diarrhoea, COVID-19 and other diseases.**

81. **The negative impact of unilateral sanctions is exacerbated multiple times over by the de-risking policies of banks, donors, and trade and cooperation partners, resulting**

in overcompliance, reportedly impeding the possibility of citizens of Zimbabwe and private businesses to participate in international cooperation and professional or sports training and exchanges, thereby affecting the right to education and the possibility of professional growth. By preventing the flow of investments to Zimbabwe because of high reputational risks, the number of job opportunities is negatively affected, resulting in external migration and involvement in the informal economy.

82. **The Special Rapporteur is concerned that the use of extraterritorial secondary sanctions and reported fear of sanctions result in overcompliance with existing sanctions regimes, preventing the Government of Zimbabwe, its public sector and private companies from purchasing machinery, spare parts, medicine, food, agricultural supplies and other essential goods, and resulting in a growing number of refusals of and difficulties related to bank transfers, which cause prices to rise for all goods, especially imported goods.**

83. **Insufficient resources, the limited availability of technical aid, and delays in the recruitment of qualified professionals and in building essential infrastructure, including hospitals, schools, courts, and infrastructure related to transport, electricity and agriculture, result in the unavailability of medical aid, food insecurity and poverty, affecting the ability of public institutions to work properly and harming the terms and quality of public services, including investigations and court hearings, giving rise to crime and corruption and thus affecting numerous rights, including the right to health, education and due process guarantees.**

84. **The Special Rapporteur notes with concern that the lack of resources, limited access to development loans and the reluctance of foreign entities to deal with Zimbabwean partners or invest in the economy, make it hard and expensive to buy necessary medical and technological equipment, reagents and spare parts for the repair and maintenance of water, public transport, telephone and communication systems, as well as schools, hospitals, public housing and other public services; and to implement development projects, including those approved by the United Nations Industrial Development Organization and other organizations, thus undermining the enjoyment of many human rights, including the right to a decent life.**

85. **The Special Rapporteur notes that poverty; insufficient resources; the use of third-country partners and banks, often in non-transparent procedures, due to the impact of unilateral sanctions, fear of secondary sanctions and de-risking policies; and the unavailability of technical assistance for institution-building, traditionally give rise to crimes and corruption and undermine the institutions and values of democracy, ethical values and justice. These conditions jeopardize sustainable development and the rule of law, as defined in the preamble and article 9 (1) of the United Nations Convention against Corruption.**

86. **The Special Rapporteur underlines that low salaries and reduced Internet access result in the inability to pay tuition fees and in the growing school and university dropout rates, the emigration of teachers and university professors and the reduction of the number of schooling hours, thereby endangering the exercise of the right to education. The reported reluctance of foreign partners to cooperate with Zimbabwean educational institutions, sport societies and private companies, as well as impediments to money transfers, difficulties in getting visas, and the reported ineligibility of Zimbabwean students and scholars for research grants and scholarships, affect the right to education; international academic, sports and cultural cooperation; innovation; academic freedoms; and cultural rights.**

87. **The inability to buy equipment, raw materials and spare parts directly from producers and the impediments to bank transfers prevent the involvement of Zimbabwean companies of all sizes in international cooperation. The companies affected include those organized by and for vulnerable population groups, such as people with disabilities and women in rural areas involved in folk crafts, as well as the agricultural and mining industries. This results in substantial declines in revenues, leading to poverty and to violations of the rights to food, health, life, and economic and cultural rights.**

88. **The existing backlog in manufacturing IDs and passports affects the right to the recognition of the personality, and limits access to the rights to education, work, social guarantees and health care. In addition, the unavailability of credit and foreign investment; overcompliance by banks; higher costs and longer processing times for bank transfers; impediments in the delivery of essential equipment and spare parts; and underdeveloped and deteriorating infrastructure affect tourism and prevent the implementation of environmental protection and sustainable development projects.**

89. **The Special Rapporteur notes with concern that unilateral sanctions, secondary sanctions, de-risking policies and overcompliance applied to nationals and residents of Zimbabwe and to partners of Zimbabwean companies affect, in one way or another, the achievement of all of the Sustainable Development Goals in accordance with the 2030 Agenda for Sustainable Development.**

VII. Recommendations

90. **The Special Rapporteur reminds all parties of their obligation under the Charter of the United Nations to observe principles and norms of international law, including principles of sovereign equality, political independence, non-intervention in the domestic affairs of States, and peaceful settlement of international disputes. She welcomes the decisions of the European Union and Switzerland to minimize the number of active targeted sanctions to zero and calls upon Australia, Canada, the United Kingdom and the United States to review and lift sanctions on natural and legal persons of Zimbabwe in accordance with principles and norms of international law and human rights law.**

91. **The Special Rapporteur urges all stakeholders at the international and national levels to stop using the rhetoric of sanctions as an advocacy tool, and to engage in structural dialogue to settle any disputes in accordance with the rule of law. She stresses that the Sustainable Development Goals can only be achieved in the spirit of solidarity and cooperation between countries. She reminds the international community that any unilateral measures may only be taken when they duly comply with States' international legal obligations (retortions) or are applied in the course of internationally lawful countermeasures. She also stresses that no good intention justifies the violation of fundamental human rights as "collateral damage".**

92. **The Special Rapporteur urges all interlocutors (including States, international organizations, banks, private companies and civil society) to avoid coercion, written or oral threats, or any other act that may cause or result in overcompliance, and to interpret all limitations in the narrowest possible way in the interim period before the lifting of unilateral sanctions.**

93. **The Special Rapporteur urges the Government of the United States to cease the state of national emergency regarding Zimbabwe, which is not in accordance with the norms of the International Covenant on Civil and Political Rights, and to bring national legislation into line with international law, including human rights law, refugee law and the law of international responsibility. She also stresses the inadmissibility of the expansive interpretation of jurisdiction as based on payments of United States dollars, the use of correspondent banks working under national jurisdiction and the participation of national shareholders, among others, for the application of secondary sanctions, civil and criminal penalties, and threats with sanctions, as contrary to international law.**

94. **The Special Rapporteur calls upon sanctioning States to:**

(a) **Engage in a meaningful and structured political dialogue with Zimbabwe on human rights, good governance and the rule of law with a view to lifting all primary and secondary sanctions imposed on legal and natural persons in Zimbabwe in accordance with principles of international law and the rule of law, and guarantee the rights of targeted individuals to the presumption of innocence, procedural guarantees, access to justice and other fundamental rights;**

(b) **Ensure that access to food, water, sanitation, medicine, vaccines, equipment, spare parts, seeds, fertilizers and other necessary goods and services for the maintenance of critical infrastructure, survival and development of the people of Zimbabwe is not affected by unilateral sanctions;**

(c) **Guarantee that humanitarian needs prevail over political considerations and that unilateral sanctions are not imposed as a substitute for criminal charges, and that civil and criminal charges are only brought in good faith when sufficient evidence and jurisdiction exists.**

95. **The Special Rapporteur calls upon banks and private companies to behave in accordance with the Guiding Principles on Business and Human Rights to avoid overcompliance and the consequent violation of rights of nationals and residents of Zimbabwe. The Special Rapporteur also stresses the obligation of all States and regional organizations to comply with the principle of due diligence and to take all necessary measures to guarantee that activity under their jurisdiction and control will not affect the human rights of people in the country and beyond national borders.**

96. **While welcoming certain steps taken to suppress corruption, the Special Rapporteur calls upon the Government of Zimbabwe to implement systematically its programme to achieve that objective, enabling the effective functioning of the anti-corruption commission and the system of anti-corruption courts, and proceeding with complex and verifiable investigations. She amplifies the fact that measures allegedly seeking to minimize money-laundering in practice result in the growth of corruption.**

97. **While welcoming humanitarian support provided to Zimbabwe by donor States, the Special Rapporteur stresses the need for pro bono involvement of all interlocutors – whether governmental, non-governmental or international – to rebuild the capacity of Zimbabwe to restore essential infrastructure and public services to enable the Government to implement its duty to take all necessary means to achieve the Sustainable Development Goals on the elimination of poverty and hunger, in the sphere of health, nutrition, labour, social guarantees, education, access to the Internet and the elimination of corruption. Delivery of humanitarian aid must not be used as a means of political manipulation. In this regard, she recalls that international aid and assistance should be consistent with national priorities, ensure national ownership, focus on real and measurable impact and help build national resilience, in accordance with the Paris Declaration on Aid Effectiveness and the Accra Agenda for Action to improve the quality of aid and its impact on development.**

98. **While recognizing the devastating consolidated effect of unilateral sanctions and overcompliance on the right to development of the Zimbabwean people and also on the rights to food, health, education and labour rights, the Special Rapporteur calls upon the Government of Zimbabwe, in cooperation with the Office of the United Nations High Commissioner for Human Rights and the United Nations country team, to implement fully the cooperation agreement signed between them and to organize visits of relevant special procedures to the country.**

99. **The Special Rapporteur calls upon United Nations agencies and organizations, in cooperation with relevant humanitarian organizations, to organize monitoring of the negative humanitarian impact of unilateral sanctions on human rights and the 17 Sustainable Development Goals within their respective spheres of responsibility.**