

Chapter II: Towards a Coherent Zimbabwean Model

Constitutional identity and constitutional interpretation operate like Siamese twins. The expansive internal Bill of Rights has an interpretation method that could provide the starting point in modifying or crafting innovative methods of constitutional interpretation in Zimbabwe. The Constitutional Court can torch bear on designing various methods that resonate with the Bill of Rights model. The imploration in this book is that the superior courts, particularly the Constitutional Court, should adopt a progressive approach to rights constitutionalism that is contemplated by the Constitution. There is need for judges to revisit the '*hands-dripping-with hands*' doctrine which began in the *Mawarire* case. This approach must be used to shun the obsolete *dirty hands* doctrine which is brought back to Zimbabwe's constitutional system through various means such as:

- constitutional avoidance
- unnecessary resolution of constitutional matters on the merits
- Deference doctrines
- Postponing constitutional orders without accompanying court supervision
- Selective judicial restraint which is usually employed to frustrate litigants in strategic cases through judicially constructed litigation fatigue.

The Envisaged Model

Zimbabwean judges are appointed by the President. By extension, they are supposed to be directly answerable to the people who directly elect their appointing authority, the President of Zimbabwe. Judges, whatever their legal philosophy, must uphold the constitutional responsibilities that are enshrined in section 176 of the Constitution to develop the constitutional common and constitutional customary law of Zimbabwe. Where they regulate their internal processes in ways that smack of borrowing the best of many worlds, especially the South African and American doctrinal influences, they must realise that such doctrinal canons are not expressly mentioned in the Constitution or national laws. The interpretation clause in the Constitution provides peremptory guidelines which range from:

- The constitution and its entrenched values must be utilised first before prioritising other approaches
- Constitutional interpretation is a matter of constitutional responsibility

- Judges as part of functionaries in state institutions must not interpret on a frolic of their own. They must uphold duties of those identified as duty-bearers in the protection of human rights;
- The doctrines of entrenchment and justiciability must guide judges in interpreting the generations and categories of rights in the Bill of Rights.

The Duty Bearer-Rights Holder Dichotomy

The Zimbabwean constitution requires active justiciability to grow rights constitutionalism. The right holders must be treated as autonomous individuals as contemplated by the main preamble to the Constitution which underlines individual sovereignty. Conversely, they must assert their rights and freedoms responsibly as guided by the boiler plate constitutional presumption in section 47 of the Constitution which presumes the existence of other rights. The presumption must be read together with limitations in the Bill of Rights relating to:

- general or special limitations in sections 86 and 87 of the Constitution
- those limitations relating to persons who can claim certain rights, conditional or relative rights,
- absolute exceptions or non-negotiable rights,
- standards of review.

The availability of the rights and freedoms assist citizens to enhance the practical value to others who hold different rights and freedoms. We can reduce the ways of protecting constitutional rights through constitutional interpretation and rights constitutionalism to the following critical standpoints:

- Zimbabwe's Constitution has a Bill of Rights which has peremptory starting points and standards of constitutional interpretation judges must use to build Zimbabwe's constitutional identity and rights constitutionalism.
- Currently, Zimbabwean judges continue to vacillate between narrow and purposive method of constitutional interpretation, especially in political and economic cases. To effectively protect constitutional rights and encourage rights holders to also assert their rights responsibly, judges must balance between justiciable concepts and the boiler plate constitutional presumption in the Bill of Rights model.

- Judges also choose constitutional moments to be inventive or to abandon strict narrow constitutional methods. The abandonment approach is normally used in women and children's rights, or other rights such as rights to privacy, rights to human dignity. This has also been the case with how the courts are prepared to utilise analogous or evolutionary methods of constitutional interpretation, albeit with or without interrogating the methods as contemplated by the constitution. When they simply refer to evolutionary concepts on ripeness or constitutional avoidance, their approach is no different from simply comparing the wings of a bird to the wings of an airplane.
- ECOSOC rights are still lagging in terms of benefiting from reasonable standards of review or any other methods of judicial protection of ECOSOC rights. Courts justify state policy and rarely refer to soft law such as general comments or the hard sources of international law to protect such rights. Where hard sources of international law are referred to, judgements rarely interrogate with soft laws that provide content to those rights or soft law that have the status of *jus cogens* or *erga omnes*.
- Judicial reliance is still given to foreign law doctrines that are used to stifle or frustrate litigants. The doctrine of ripeness and judicial restraint are frequently used by the Constitutional Court and we opine that this is inimical to the constitutional democracy envisaged in the constitution since the Constitutional Court is the apex court in constitutional matters. The judges must not frustrate litigants by invoking doctrines that bring back the dirty hands doctrine which is explicitly outlawed by the constitution.

What is next for the judges?

There are many potentially effective judicial techniques that can be employed to promote the Bill of Rights model. They include the following:

1. PROTECTING THE BASIC FEATURES DOCTRINE IN CONSTITUTIONAL ADJUDICATION

Using the basic or essential features doctrine, judges and the President are the two major custodians of the constitution. The President is directly elected and is given a direct constitutional mandate by the people who are the repositories of governmental authority. Judges are the neutral constitutional arbiters and

custodians who work for the people who directly elect their appointing authority, the President. The provision of effective constitutional remedies through constitutional courts starts with the courts' preparedness to protect the basic features which the judges preside over. Constitutional matters must:

- Clarify the law as contemplated by the Constitution's features such as the sovereignty clause, values provisions, Bill of Rights clauses, constitutional presumptions and limitations to rights;
- Treat the plain meaning to mean 'textual clarity' and not just ordinary or dictionary meanings of word employed mainly in the cases that were used to expel parliamentarians who are again directly or indirectly elected by the people depending on how one puts it;
- Read the constitutional provisions through the lens of due process in processes where the essential features of the constitution are threatened,
- Proclaim the impropriety of certain state conduct and avoid postponing the operation of court orders against such conduct without active supervision from the courts;
- Reinforce the need to resolve constitutional rights cases through domestic and international law through the lens of the Bill of Rights model, including designing alternative dispute resolution methods enshrined in the constitution (mediation, arbitration, conciliation and perhaps facilitation);
- Avoid sweeping reliance on the Westminster version of the common law that is largely based on conventional rule of law rather than rights-based rule of law. Put simply, judges in Zimbabwe must develop constitutional common law so that superior courts avoid what is called 'dull' constitutional moments. This approach shows that what passes out as authoritative constitutional interpretation must be a substructure of substantive, procedural and remedial rules drawing their inspiration and authority from, but not required by, various constitutional provisions.⁶⁷² Such constitutional common must of course, be subject to amendment, modification, and reversal by the legislature depending on how judges a constitutional common law model to satisfactorily explain the various constitutional doctrines they employ, especially when dealing with

⁶⁷² See more on constitutional common law from Henry P. Monaghan, *Constitutional common law*, 89 *Harv. L. Review* 1. (1975).

constitutional common law of individual freedoms.⁶⁷³ The beauty of constitutional common law is that Zimbabwean judges are obligated to develop it as a matter of constitutional responsibility.

The basic features doctrine is now part of our law as is clear from the Bill of rights and the justiciable features that are now protected in the main preamble, the devolution preamble, the constitutional supremacy clause, and the founding values. The ‘founding values’ of constitution must now be treated as significant to Zimbabwe’s constitutional democratic system in light of section 3(1) of the Constitution of Zimbabwe.

3 Founding values and principles

(1) Zimbabwe is founded on respect for the following values and principles—

- (a) supremacy of the Constitution;
- (b) the rule of law;
- (c) fundamental human rights and freedoms;
- (d) the nation’s diverse cultural, religious and traditional values;
- (e) recognition of the inherent dignity and worth of each human being;
- (f) recognition of the equality of all human beings;
- (g) gender equality;
- (h) good governance; and
- (i) recognition of and respect for the liberation struggle.

The 2013 Constitution as consolidated at 2023 begs the question of the role and function of the essential features paradigm as a structural pillar of constitutional rights in Zimbabwe. The starting point is to ask the question, can a constitution be unconstitutional? We approach this question from two ways, procedural and substantive approach. Our courts have shown that where a constitutional amendment or a new constitution is purportedly enacted contrary to the Constitution, the amendment/new constitution is null and void ab initio.⁶⁷⁴ From the standpoint of the essential features doctrine, the *Gonese* case supra shows that procedural unconstitutionality has not raised problems with constitutional theory. What remains problematic and elusive from our superior courts’ constitutional jurisprudence is substantive unconstitutionality, where the constitution is said to be unconstitutional because of its substantive content, such as going against certain values and principles. From comparative

⁶⁷³ Ibid.

⁶⁷⁴ See *Innocent Gonese and Another v Parliament of Zimbabwe* CCZ04/2020.

jurisprudence, section 3 of the Constitution of Zimbabwe and section 1 of the Constitution of South Africa 1996 are now part of the basic features doctrine that was pioneered by the Indian Courts.⁶⁷⁵

Before the essential doctrine was expressly part of our law, Zimbabwe rejected the essential features doctrine following cases where constitutional amendments out the jurisdiction of courts to entertain any challenge concerning land acquisitions.⁶⁷⁶ In the *Campbell* case, the Commercial Farmers Union approached the court arguing that amendment 17 was unconstitutional in the sense that it undermined the basic features of the Zimbabwean Constitution. A unanimous SC sitting as a Constitutional Court in a judgment written by Malaba J (as he then was) dismissed the application on the basis that the basic features doctrine was not part of Zimbabwean law. We believe the legal implication of this judgment is no longer tenable in Zimbabwean law in light of constitutional interpretation considering the justiciable significance of ‘founding values’ under the current constitution. This position is buttressed by the fact that when the Commercial Farmers Union approached the SADC Tribunal with the same arguments, and the SADC Tribunal held that the amendment in question undermined the basic features doctrine in light of The SADC Treaty which provided in Art. 4 that SADC is bound by the ‘rule of law’.

From cross-border constitutionalism, Zimbabwe’s constitution borrowed features from the South African, Kenyan, Canadian, and American constitutions. Recently, the Kenyan courts recently dealt with the basic features doctrine in what is famously referred to as the BBI cases.⁶⁷⁷ The issue went through three courts namely High Court, Court of Appeal and the Supreme Court. The government lost in all three courts. The courts found the BBI amendment bill which proposed 74 amendments to be unconstitutional on the basis that the basic structure doctrine was applicable to Kenya. The courts grappled between the basic structure vs. internal constitutional safeguards arguments to determine how the People become the primary constituent power which existed outside the Constitution. The people decide how to make or remake the Constitution. The Court proposed four steps which must be done

⁶⁷⁵ See the case of *Kesavanda* (1973) 36 SCR.

⁶⁷⁶ *Mike Campbell (Pty) Ltd v Minister of National Security Responsible for Land, Land Reform and Resettlement* SC 49/07. See also *Mike Campbell (Pvt) Ltd and Others v Republic of Zimbabwe* (2/2007) [2008] SADCT 2 2008.

⁶⁷⁷ *The Hon. Attorney General v David Ndii and Others*, Petition No. 12 of 2021 (consolidated with Petitions No.s 11 & 13 of 2021) KSC (The BBI Appeal), para. 35.

sequentially. The first step is civic education (which can be done in light of section 7 of the Constitution whenever a referendum or people's power is to be affected.

7 Promotion of public awareness of Constitution

The State must promote public awareness of this Constitution, in particular by—

(a) translating it into all officially recognised languages and disseminating it as widely as possible;

(b) requiring this Constitution to be taught in schools and as part of the curricula for the training of members of the security services, the Public Service and members and employees of public institutions; and

[Paragraph amended by s. 25 of Act No. 2 of 2021]

(c) encouraging all persons and organisations, including civic organisations, to disseminate awareness and knowledge of this Constitution throughout society

Zimbabwe can also use historical steps such as the referendum that culminated in the rejection of the Constitutional Commission Draft Constitution in 2000 or steps under COPAC or constitutional process that culminated in the adoption of the 2013 Constitution.

The second step relates to public participation which again stems from section 7 of the Constitution. The third step involves the Constituent Assembly, the people who should effectively participate in the fourth step, the referendum. The steps were rejected by the Supreme Court of Kenya and the applicability of the basic structure with a 6-1 decision, with Ibrahim J dissenting. The basis for the finding was that the High Court and Court of Appeal had created a judicially fourth pathway contrary to the tiered amendment process enshrined in Articles 255-257 of the Kenyan Constitution. We argue that the Zimbabwean Constitution is unique in that it obligates the Courts to look into the justiciable internal solution that cures amendment processes or any governmental steps which affect the essential features of the Constitution. This solution is expressed in section 46 of the Constitution. Zimbabwe's position goes beyond the positions even in India where the basic structure is used to protect the Constitution from Parliamentary abuse. While the basic structure has been used as the judicial veto over constitutional amendments or other aspects that affect the Bill of Rights, the Zimbabwean Constitution addresses both the substantive and procedural role of courts in relation to basic structure of the courts. The High Court and Court of Appeal had focused on the

procedural aspects protected by the People as the constituent power without ventilating on the substantive aspects in the amendment provisions.

In South Africa, the Constitution empowers the Constitutional Court to determine whether a constitutional amendment is constitutional. The same applies to Zimbabwe which entrenches the rule of law. To contextualise the essential features doctrine in the Zimbabwean jurisdiction, we also refer to the political questions doctrine. Zimbabwe's good governance principles in section 3 (2) of the Constitution creates a possibility that Political questions can affect constitutional interpretation under the separation of powers doctrine. While separation of powers is entrenched value, judges have a constitutional responsibility to balance between factors that affect the constitutional equilibrium in Zimbabwe as contemplated by section 176 of the Constitution. The **basic structure doctrine** that originated in India, holds that certain fundamental principles of a constitution cannot be amended even by a parliamentary supermajority. In Zimbabwe, section 328 of the Constitution although yet to be ventilated by our courts, provides strong indications that the essential features doctrine is recognised in both **substantive** and **procedural** aspects. Procedurally, section 328 (6) mandates a **national referendum** for amendments to critical chapters (such as Chapter 4 on fundamental rights), reinforcing the idea that certain provisions require direct public consent beyond parliamentary approval. This also can be used to aspects relating to direct democracy such as acts of the President and how he or she appoints judges. Substantively, section 328 (7) prevents **retrospective amendments** to term-limit provisions, ensuring that those in power cannot extend their tenure through constitutional amendments—an essential safeguard against executive overreach. Furthermore, section 328 (8) restricts simultaneous amendments to key procedural safeguards, making it difficult to undermine democratic principles through a single legislative move.

We have noted above that **India** has explicitly upheld the basic structure doctrine since *Kesavananda Bharati v. State of Kerala* (1973), ruling that Parliament cannot alter the fundamental framework of the Constitution. **South Africa**, while allowing constitutional amendments, embeds the doctrine through section 1 of its Constitution that lists foundational values such as democracy and the rule of law—amendable only with a **three-fourths** majority and provincial support. Meanwhile, **Kenya's** recent *BBI* (*Building Bridges Initiative*)

cases (David Ndii v. Attorney General) rejected the basic structure doctrine, arguing that the Kenyan Constitution already provides sufficient **internal safeguards** against unconstitutional amendments without the need for an external doctrine. The judges however engaged in unnecessary splitting of hairs failing to justify their attempt to distinguish a doctrine from a school of thought. Unlike Zimbabwe’s **referendum requirement**, Kenya’s courts ruled that no inherent limitation prevents Parliament from amending any constitutional provision, provided legal procedures are followed. Zimbabwe’s **section 46** that requires courts to interpret constitutional provisions in a manner that promotes fundamental rights and values, can reinforce **substantive basic structure** by ensuring that any amendments align with human dignity, democracy, and the rule of law. When combined with **section 328’s procedural safeguards**, these provisions create a constitutional framework that—while not explicitly naming the basic structure doctrine—effectively embeds its principles, making it difficult to alter the core foundation of the legal system without broad democratic participation. Principles of democracy entrenched in the constitution are no longer considered mere principles or tenets to be ignored by state institutions.

328 Amendment of Constitution

(1) In this section—

“Constitutional Bill” means a Bill that seeks to amend this Constitution;

“term-limit provision” means a provision of this Constitution which limits the length of time that a person may hold or occupy a public office.

(2) An Act of Parliament that amends this Constitution must do so in express terms.

(3) A Constitutional Bill may not be presented in the Senate or the National Assembly in terms of section 131 unless the Speaker has given at least ninety days’ notice in the Gazette of the precise terms of the Bill.

(4) Immediately after the Speaker has given notice of a Constitutional Bill in terms of subsection (3), Parliament must invite members of the public to express their views on the proposed Bill in public meetings and through written submissions, and must convene meetings and provide facilities to enable the public to do so.

(5) A Constitutional Bill must be passed, at its last reading in the National Assembly and the Senate, by the affirmative votes of two-thirds of the membership of each House.

(6) Where a Constitutional Bill seeks to amend any provision of Chapter 4 or Chapter 16—

(a) within three months after it has been passed by the National Assembly and the Senate in accordance with subsection (5), it must be submitted to a national referendum; and

(b) if it is approved by a majority of the voters voting at the referendum, the Speaker of the National Assembly must cause it to be submitted without delay to the President, who must assent to and sign it forthwith.

(7) Notwithstanding any other provision of this section, an amendment to a term-limit

provision, the effect of which is to extend the length of time that a person may hold or occupy any public office, does not apply in relation to any person who held or occupied that office, or an equivalent office, at any time before the amendment.

(8) Subsections (6) and (7) must not both be amended in the same Constitutional Bill nor may amendments to both those subsections be put to the people in the same referendum.

(9) This section may be amended only by following the procedures set out in subsections (3), (4), (5) and (6), as if this section were contained in Chapter 4.

(10) When a Constitutional Bill is presented to the President for assent and signature, it must be accompanied by—

(a) a certificate from the Speaker that at its final vote in the National Assembly the Bill received the affirmative votes of at least two-thirds of the membership of the Assembly; and

(a) a certificate from the President of the Senate that at its final vote in the Senate the Bill received the affirmative votes of at least two-thirds of the membership of the Senate.

2. Appreciating the Categories of Rights Protected Bill of Rights

In interpreting the Bill of Rights, courts must take cognisance of the Bill of Rights debates before the adoption of the Constitution, the expansive nature of the Bill of Rights and special rights enshrined in sections 80-84 of the Constitution. We will address the three aspects in the following manner:

- (a) The Bill of rights debates help in ironing out sticky or contentious issues that relate to constitutional provisions. For instance, section 73 (3) of the Constitution prohibits same-sex marriages. The COPAC reports can be used to also interpret this provision in the event that it is interpreted on the grounds of sexual orientation. Those documents form what can be called the *travaux preparatoires* of Zimbabwe's constitutional negotiations under COPAC.
- (b) The choice of rights in the Bill of Rights is highly expansive. It is no longer a question of does Zimbabwe need a Bill of Rights or should certain rights be entrenched? It is now clear that courts are part of the institutions that help rights holders to enjoy their rights and freedoms. Effective enforcement Bill of Rights depends on the system of checks and balances in the constitution. This is because the Bill of Rights helps in correcting certain inadequacies in the political system of checks and balances. The generation of rights in the Bill of Rights are guaranteed in international instruments some of which Zimbabwe is a state party. The Bill of Rights addressed the concern relating to the appearance of hypocrisy which results from agreeing at the international level to guarantee rights but failing to incorporate constitutional guarantees under Zimbabwe's constitutional law. The merit

in acceding to and ratifying international and regional treaties is to ensure a sustainable culture of human rights is fostered both domestically and internationally. The entrenchment of those rights was made possible as a matter of Zimbabwe's constitutional law. The availability of entrenchment in Zimbabwe is not compromised by parliamentary sovereignty because the Constitution is a sovereign in its own right. Zimbabwe's Parliament derives its authority from the constitution as a higher law, and not merely from judicial acceptance. Zimbabwe's position is different for instance, from the UK where Parliament does not derive its power from a written constitutional document and relies on the doctrine of judicial acceptance of legislative authority. Parliamentary sovereignty depends on judges unlike constitutional sovereignty which depends on itself and the constituent power, the people.

- (c) So far, legal discussions of the special rights in sections 80-84 are limited to women's rights and children's rights following the *Mudzuru* landmark case. A legal analysis in light of a wider set of protection mechanisms needs to be made also of other rights relating the elderly, persons with disabilities and veterans of the liberation struggle.

3. Ways of protecting constitutional rights

In terms of domestic, regional, and international protection of constitutional rights, academics and judges need to engage with these concepts early on in their careers and build them into their case planning and litigation strategies. Failure to adopt such an approach means the legal fraternity is forever trivializing constitutional jurisprudence in Zimbabwe. The growth of constitutional monographs just be an important issue which could actually be recognised by ZIMCHE or the Zimbabwe Council for Higher Education. Academics cited in this book have shown a keenness to contribute to constitutional debates around role and independence of courts; constitutional mandates of national institutions which protect human rights; role of constitutional commissions and so forth. There are many constitutional provisions which, lawyers might say, need to be ventilated through an interactive process that consider ways of protecting human rights such as:

- (a) Understanding the political philosophy of civil and political rights. This should involve clear distinctions between natural and positive rights; negative and positive rights; and how rights link with constitutional

democracy and the rule of law. Where judges employ emerging jurisprudence or comparative jurisprudence, they need to do so in nuanced fashion.

When litigants or judges focus on the politics of interpretation, especially the politics thereof, focus can be on the work of Iain Currie especially his article on, “Constitutional Avoidance.....”;

A political economy approach in ECOSOC rights can benefit from integrating the views from “The political economy view of law.”

If TWAIL is considered a sound and apt theoretical optic on law; the following works can be integrated into the judge or litigant’s reasoning:

- Makau W. Mutua (2000). What Is TWAIL? The American Society of International Law.
- Balakrishnan Rajagopal (2003). International Law from Below: Development, Social Movements, and Third World Resistance. Cambridge University Press.
- Antony Anghie (2005). Imperialism, Sovereignty and the Making of International Law. Cambridge University Press.
- Sujata Shivani (2016). Decolonizing International Law: TWAIL and the Role of the Global South. Harvard International Law Journal, 57(2), 227-257.
- Nsongurua J. Udombana (2009). The Third World and the International System: The Political Economy of the Third World Approach to International Law. International Law and Politics, 41(4), 871-907.

We believe it is the responsibility of litigants and interpreting authorities to protect the constitutional identity by supporting a change in attitude towards constitutional jurisprudence. Constitutional interpretation should go beyond statutory interpretation as taught in undergraduate classes.

What Lawyers must do?

- (a) Lawyers must help courts to identify international human rights law applicable to certain constitutional rights. The civil and political rights must be explained using developments at the United Nations human rights system and through the ICCPR. ECOSOC rights must be understood through developments relating to the ICESCR. Third and fourth generation rights must be understood through living international law relating to green transition and other emerging protection mechanisms such as business and human rights, sustainability issues, environmental governance, and so forth. Zimbabweans have also participated during the

international supervision mechanisms such as Universal Peer Review (UPR), despite threats from statutes such as the Patriotic Act which may threaten the participation of civic organizations.

- (b) Regional systems must be properly understood. For instance, the African human rights system imposes rights and duties on both states and their citizens. Certain regional instruments have comparable provisions that protect specific right holders. For instance, protection of children against less severe violence is to be found in the Convention on the Rights of the Child (CRC) and the European Convention on Human Rights; Article 9 of ICCPR, Article 16 of the Convention on the Rights of Persons with Disabilities; Article 4 of the African Charter on Human and People's Rights and Article 16 of the African Charter on the Rights and Welfare of the Child. These provisions can be read in light of the established international legal position that practices that are incompatible with the rights established in the CRC are not in the best interests of the child.⁶⁷⁸
- (c) Zimbabwe's approach tilts in favour of minimal state activity. This is explained by progressive constitutionalism espoused in the supremacy clause, the main preamble, Bill of Rights and the founding values of the democracy. Different institutions also help in protecting human rights. Parliament scrutinises state intervention, and also mandates the President to establish independent commissions to check state action as was done after the killing of six civilians in 2018. People rely on elected MPs who must be accountable to the people and political parties that elect them into Parliament. The ordinary active citizens have not displayed public complacency about the extent of their constitutional rights and freedoms. The state has officially recognised generations of rights, creating a culture of ethical realism rather than outright Machiavellian realism. The gradual development of rights-consciousness has also been influenced by sub-regional human rights litigation before the disbanded SADC Tribunal and cases submitted before the African Commission on Human Rights. The African human rights system also includes the African peer review mechanism.
- (d) There is increasing development of tools to protect special right holders. Zimbabwean institutions have moved away from vulnerability to livelihood measurements in terms of social development. This can be used to amend

⁶⁷⁸ CRC General Comment No. 14 (29 May 2013) UN Doc CRC/C/GC/14 @57.

the constitution in future so that the right to social security currently protected in the national objectives would be made justiciable under the Bill of Rights. The vulnerability and livelihood tools fit into a dichotomy that particularizes human rights law so that universal human rights norms are complemented with special protection of some rights that traditionally were left behind.⁶⁷⁹

What Constitutional Law, Constitutional Identity and Constitutional Interpretation should Look Like in Zimbabwe?

We have stressed the importance of constitutional law, constitutional identity, and interpretation in this book. We believe the following tables help illustrate how the three aspects can be in light of the Constitution of Zimbabwe as amended at 2023. Academics, lawyers, and ordinary citizens are free to add other ways of improving the constitutional society of Zimbabwe.

⁶⁷⁹ See Heikkilä, M, Katsui H, & Mustaniemi-Laakso, M, Disability and vulnerability: a human rights reading of the responsive state, *The International Journal of Human Rights Law*, 24 (8), 1180-1200.