The State, Civil Society and Human Rights: Lessons for Zimbabwe

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Abstract

Available literature has confirmed that unprecedented levels of human rights violations in the two World Wars, the holocaust in Germany, large scale mass murders, and failure by polities to observe peoples’ rights necessitated the enactment of legislation to protect people from a repeat of such tragedies. International conventions and protocols were put in place as a watchdog against any future human rights violations. The church joined the furor to fight against human rights violations and state-church interface became centred on the protection of human rights, with the church regarding itself as the secular protector of human rights against abuse by despots. The Lateran Pacts had set precedence where the church separated itself from the secular business of the state but at the same time each pledging to recognise and respect the position of each other. The international community took human rights as a concerted effort by all nations.

Keywords - Human Rights, State, Church, Civil Society, Zimbabwe, Violation

1. Introduction

The unprecedented human rights violations in the two World Wars (and more so in Germany during the same period) facilitated the need for the establishment of a human rights regime and appropriate recognition thereof. This realization for safeguarding human rights further strengthened the relationship (and at times caused conflict) between the state and the church itself, a presumably custodian of human rights. This article attempts to explore the relationship between the state and the church and how the two entities encounter the issue of human rights within their constituencies. In this paper, the term „church” refers to a generic institution which follows Christian teachings and doctrines and does not make reference to any specific religious institution. State/church relationship has always been a contentious issue where each accuses the other of infringing on its territory with the state claiming custody of the electorate while the church expressed the notion that human rights are God-given rights which each individual is entitled. It explores the state-church interface and the international regard for human rights. It argues that the observance of human rights requires a concerted effort by all nations of the world, with indications that human rights violations are viewed in very bad light and for which they should be punished.

2. Human Rights—A Historical Perspective

The concept of human rights is derived from the theory of natural law and originates in Graeco-Roman doctrines. The concept of certain individual and collective rights—in particular, civil and political rights—as "natural" or "unalienable" can be traced back to colonial times and reflects the influence of John Locke and other political theorists1 (Fagan, 2010). It appears in some early Christian literary works and is reflected in the Magna Carta (The Great Charter of 1215). It has been noted by prominent scholars such as Glendon (2001), Fagan (2010), Moyn (2010), and Neier (2012) that the concept winds as a philosophical thread through the 17th- and 18th-century European and American thought, including the American Declaration of Independence in 1776 and

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the French Declaration of the Rights of Man and Citizen (1789)\(^2\). According to the UN (2006), the United Nation's Commission on Human Rights created the UN's Universal Declaration of Human Rights in 1948, which reasserted the concept of human rights after the horrors of World War II. Human rights have since become a universally espoused yet widely disregarded concept (p. 1). The Humane Rights Resource Centre defines human rights as those basic standards without which people cannot live in dignity. Human rights are universal rights held to belong to individuals by virtue of their being human beings, and encompass civil, political, economic, social, and cultural rights and freedoms, and based on the notion of personal human dignity and worth. Looked at from a religious point of view, defence of human rights is the will of God (Cornish, 2005, p. 121).

Human rights philosophers from the liberal persuasion traditionally have emphasized individual rights that the state can either usurp or undermine. John Locke (1632-1704), among others, has asserted that individuals are equal and autonomous beings whose natural rights predate both national and international law and that public authority is designed to secure these rights on behalf of its citizenry. Theorists influenced by Karl Marx and other socialist thinkers concentrated on those rights that the state is responsible for providing. Emerging from Karl Marx's concern for the welfare of industrialized labour, the duty of states is to advance the well-being of its citizen; the right of the citizens is to benefit from these socio-economic advances. This view emphasized the minimum material rights that the state must provide to individuals. This provided individuals with the right to education, healthcare, and social security, although the amount guaranteed was not specified. Social theorists believe that without these guarantees, these political and civil rights are meaningless as they are prone to manipulation by the ruling elite.

Religious traditions have had a lot of influence on human rights. Hinduism, Judaism, Christianity, Buddhism, Islam, and Confucianism all concur that there should be dignity of individuals and people’s responsibility to their fellow humans. Hindus prohibit infliction of physical or mental pain on others. Jews support the sacredness of individuals as well as the responsibility of the individual to help those in need. Buddhism’s Eight-Fold Path includes right thought and action toward all beings. Islam teaches equality of races and racial tolerance and respect for all human beings. While the relative importance of these values may vary, Paul Gordon Lauren (1998) notes that “…early ideas about general human rights thus did not originate exclusively in one location, like the West or even with any particular form of government like liberal democracy, but were shared throughout the ages by visionaries from many cultures in many lands who expressed themselves in different ways” (p. 11).

Civil society has also been at the forefront of campaigning for human rights. Non-governmental organizations (NGOs) have long been active in human rights activities with a plethora of human rights with the establishment of NGOs in the 1970s, especially after the signing of the Helsinki Accords of 1975 which gave governments and NGOs the mandate to monitor human rights in Eastern Europe and the Soviet Union. Anti-slavery groups were among the first and most active of early human rights movements. Of minority rights, Lauren (1998) asserts that there is need for “…significant precedents for increase international protection of the rights of minority populations within states” (p. 17). Henkin (1998) admits that the purpose of international concern with human rights is to make national rights effective under national laws and through national institutions (p. 512). Henkin (1998) further explores the legal implications of violating human and peoples’ rights, especially against the backdrop of the International court of Justice whose principal mandate is to try international criminals, primarily those who will have violated people’s rights, crimes such as genocide, enslavement, and human trafficking.

### 3. Classification of Human Rights

Human rights are said to be inherent in the sense that all humans are entitled to these rights by virtue of being human. They are a natural endowment of mankind and a right and not a privilege hence the term human rights. In human rights circles, there is a system of arranging human rights, not in accordance with their importance to the human being, but by the times (or generations) that they emerged and gained in prominence. These generations cover civil and political rights, economic, social and cultural rights, and people’s or solidarity rights (Peter, 1998, p. 4). First, generation rights cover civil and political rights, traceable to the period after World War 2, a period that brought about unprecedented human suffering. The first generation rights incorporate the right to self-determination; equality before the law without any discrimination on the basis of race, colour, sex, language, religion, political considerations; right to life; and protection against torture or cruelty. Other civil and political rights include the right to privacy and protection from arbitrary or unlawful interference in one’s life; the right to freedom of thought, conscience and religion, assembly association; and the right to take part in the conduct of public affairs, among others. However, there has been unprecedented breach of these rights and freedoms, initially under colonialism and later in post-independent Africa, under various African dictators.

The second generation of rights is economic related and emerged in the 1970s with the attainment of political independence by many Africans where the struggle was now shifted from political to economic emancipation. Regional and international economic blocs were advocating for better terms of trade and a new economic order. These include the right to work and all that goes along with working conditions, including the rights of workers to join or organize trade unions. The third generation rights [also referred to as „new human rights”], which became prominent in the 1980s, are those rights which individuals as members of particular groups or ethnicity need to enjoy. They include the right to self-determination, the right to development and...
enjoyment of common heritage, and the right to national and international peace among others.

Economic, social, and cultural rights fall under the first and second generation of rights. In addition to the provision of these rights, the International Covenant on Civil and Political Rights as well as the international Covenant on Economic and Cultural Rights went about providing the monitoring mechanisms of these rights within and among nations. However, the Covenants did not seem to be coercive enough to the extent that nations began to manipulate this deficiency to violate these rights among their nationals. This resulted in states escaping liability in case of non-performance in the area of economic, social and cultural rights (Trubek in Peter, 1998, p. 15), though the international community did not allow such states to go Scot free.³ However, the Covenant lacks in clarity of how states should articulate these rights and freedoms among their nationals.

4. Human Rights and the Democratic Discourse: the State-Church Interface

Human rights stand at the intersection of the relationship between the church and the state. While the state has an obligation to dispense and observe human rights. The church is there to ensure that states do just that and in accordance with acceptable biblical (Koran) doctrine. The state has the obligation to protect citizens, provide social services (to curb deprivation), and dispense freedoms, both socio-economic and political rights. In this regard, the church views these functions of the state as having the propensity to uphold and enhance human sanctity. In the event that the state fails in its obligations, citizens would seek recourse and refuge in the church, leading to a confrontation between the despotic political leadership and the church as the latter would accuse the state of human rights violations. In this regard, cases of Archbishop Desmond Tutu of South Africa, Reverend Canaan Banana of Zimbabwe, and the Dalai Lama of Tibet would be cases of state-church interface in which the church confronts the state on human rights violations. In the same regard, the Roman Catholic Church in Malawi issued a damning pastoral letter to former President Kamuzu Banda’s administration demanding political reforms which saw the subsequent demise of the despotic Kamuzu Banda regime and the emergence of a democratic dispensation from 1991 onwards.

The Lateran Treaty signed between Mussolini and the Papacy in Italy heralded a new state-church interface where the two polities agreed to acknowledge the sovereignty of the other. However, the nature of the teaching and work of the church is such that it preaches human beings’ relationship with God and the need for human dignity. Given that background, it is proper for the church to intervene where the state violates human rights. A state can be loosely regarded as “…a political association with effective sovereignty over a geographic area and representing a population” (Stein, 2013, p. 17). The ruling elite in a state has „the responsibility to protect and observe the rights and freedoms of their people” (Falk, 2004). However, Peter (1998) notes that “human rights consciousness arose out of the brutality of the state” (p. 3), indicating that the emergence of the human rights discourse was a response to state brutality and violation of the same.

The emergence of human rights regime came to the attention of the international community with the atrocities and human sufferings of the two World Wars, followed by the German Holocausts under the dictatorship of Adolf Hitler. Dictatorial regimes did not confine themselves to Europe but came to be part and parcel of African politics. The continent came to produce its own version of dictators in Idi Amin of Uganda, Macias Nguea in Equatorial Guinea, and Bakassa in the Central Africa Republic in the 1970s. These were countries that had attained their political independence in the 1960s. These gross dictatorial tendencies resulted in the then Organization of African Unity having to initiate moves for the formulation of the African Charter on Human and People’s Rights in 1981. With the increase in the number of African countries attaining independence came a proliferation of dictators around Africa. These were a cunning breed of dictators who manipulated the electoral processes in their countries in order to cling to power, “…blending minimum elements of democracy through the conduct of flawed electoral processes” (George, 2013, p45.) or “…pretending to be in support of a multi-party political environment, but with gross political persecutions in the background” (Khabinde, 2011, p5). These countries have sought to appease the international community and the financial institutions, notably the IMF and the World Bank, in order to secure financial support from them. Cases of attempts to cling to power through constitutional amendments emerged in Namibia, Mozambique, Zambia, Malawi, Kenya, and a host of other African states in contravention of international and regional legislative instruments by denying citizens’ political right to choose political leaders of their choice.⁴ There was unprecedented levels of political manipulation of the political processes through the abuse of liberation war credentials to prevent opposition politics from taking over pronounced a number of African countries, despite the electorate having preferences other than the ruling parties which in most cases had been involved in liberation struggles for political independence. The culture of clinging to power was born out of the desire by those who had participated in the liberation struggles. The behaviour of such politicians have emerged with the introduction of the concept of government of national unity (GNU), which does not reflect the will of the people to decide who should preside over their destiny.

³ The Covenant requires that states submit reports on measurers which they have adopted to realize these rights and the progress made in the achievement of these rights among its citizenry.

⁴ See Article 21 (1) of Universal Declaration of Human Rights as well as Article 13 of the African Charter on Human and People’s Rights both of which provide that “Everyone has the right to take part in the government of his country, directly or through freely chosen representatives”
The international community has come to take human rights so seriously that violation of these rights in any state is no longer considered an internal matter of that particular state but as a common concern which should be attended to and addressed by the global community. It is in this context that the tendency by African States to violate human rights and then hide behind the “non-interference with internal affairs clause” in the African Charter on Human and People’s Rights has been characterized as being unacceptable (Henkin, 1995, p. 886). In the 1980s, Latin America experienced a norm cascade, a rapid shift toward recognizing the legitimacy of human rights norms, as elucidated in the Organisation of American States and the Inter-American Convention on Human Rights (Lutz & Sikkink, 2000, p. 638).

The African Charter on Human and People’s Rights (1989) “gives specific attention to collective rights compatible with African tradition” (Buergenthal, 1995, p. 34). Buergenthal further asserts that “the virtues of African historical tradition and the values of African civilisation . . . should inspire and characterise their reflection on the concept of human and peoples’ rights” (p. 35). Weissbrodt (2003) has expressed the role of states by noting that “setting standards is not enough to ensure the observance of human rights” (p. #). He also argues that human rights have to be effective in national settings, where the states are both creators of human rights norms and the primary violators.

Debates have also emerged on the role of the U.S. in international politics and its ambivalence about committing itself to the international human rights regime. Patrick and Moravcsik, (2002) maintain that American exceptionalism has led to the U.S. to see its role as helping to establish basic human rights standards, but to be cautious about applying such standards to itself. Similarly, a superpower or hegemony does not have to bow to the demands of others; neither does it intend to be circumscribed by the actions of others (p. 67). The U.S. is very sensitive to the specter of losing its authority to an unelected and unaccountable global bureaucracy. This has put human rights global governance at risk as any violations of human rights by the U.S., and is not considered as such, and its boisterous nature has also left many smaller states at risk of being attacked by the U.S. on flimsy allegations. This, according to Patrick and Moravcsik (2002), has put the global protection of human rights at a tangent (p. 68).

In Africa there have been debates around human rights and human rights violations. Decades of deliberations on human rights have simplified the definition of the term to imply those liberties, immunities and benefits which, by accepted contemporary values, all human beings are entitled. Talking about immunities against human rights violations reminds one of how many African leaders have violated the rights of their citizens. The international community has come to take human rights so seriously that any human rights violations in any country, the state must be answerable.

In recent years, global civil society institutions such as the Breton Woods institutions and UN agencies as well as the global donor community have prescribed good governance, democratic dispensation and the observance of human rights as qualifications for aid and as a prerequisite for continued balance of payment support from the multilateral institution. Similar requests have also been made to Zimbabwe for the improvement of its democratic structures. The World Bank’s recent recognition of human rights as an essential aspect of governance has manifested an extended operational use of the concept (World Bank, 1992, p. 18). In the same vain, the International Monetary Fund (IMF) and the World Bank have encouraged various countries around the world to re-visit its human rights position, land issue, and the rationalization of its electoral process to ensure free and fair. A recent and conspicuous example is where the European Union has called upon Zimbabwe to pay attention to human rights and consider property rights in its Land Redistribution Programme through the repulsion of legislation that curtails civil society participation. The Commonwealth has, in recent times, emphasized (prescribed?) good governance and the observance of human rights as important tools among its membership drawn from across the globe. The Commonwealth has also encouraged Zimbabwe to inculcate a democratic culture in all its institutions and to comply with democratic principles of good governance and human rights.

5. **The State, the Church and Human Rights in Zimbabwe**

Zimbabwe has been in the limelight in recent years, but for all bad reasons. Its infamous land redistribution, while a noble idea, was done without due regard being given to property rights. The civil unrest that dominated the early years of independence during the 1980s again saw not only gross violation of human rights, but also a proliferation of human rights organizations whose aim was to help instill a culture of respect for human rights in Zimbabwe. One of the church-related civic organizations that entered into the furore of criticizing human rights that were perpetrated during the civil unrest in Matabeleland and parts of the Midlands was the Catholic Commission for Justice and Peace (CCJP).

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5 The Land Redistribution Programme have been carried out under chaotic conditions where former land owners were evicted without due regard for property rights, hence it was dubbed “land invasions”.

6 Zimbabwe was expelled from the Commonwealth in 2003 for flouting electoral principles of free and fair elections and human rights violations and non-compliance to democratic principles.
6. The State-Church Interface: Case of the Catholic Commission for Justice and Peace (CCJP)

Zimbabwe, being a member of the global village, is bound by the various international conventions and protocols, and is a signatory to numerous of these. On the same note, Zimbabwe is answerable to any human rights violations just like any other member of the global village.

While literature on human rights in Zimbabwe is limited to research findings, such as the Catholic Commission for Justice and Peace (CCJP)’s findings and publications on the Matabeleland Massacres of the early 1980s publications by international NGOs like Amnesty International and Human Rights Watch, are equally indispensible. However, of paramount important have been the on-sight observations and publications by the Roman Catholic-affiliated CCJP in its publication *Breaking the Silence, Building True Peace. A report on the disturbances in Matabeleland and the Midlands 1980–1988* in which it gives a detailed account of the unprecedented gross human rights violations in the history of post-independence Zimbabwe. The churches have been instrumental in criticising human rights violations, not only in Zimbabwe but also globally.

Diomo (1995), cited in Houtzager, et al. (1990), has acknowledged “…the crucial role progressive sectors of the Catholic Church [have] played in creating and supporting community organisations and social movements, particularly in the 1980s” (p. 25). The Catholic Commission for Justice and Peace (CCJP) is one such community organisation that worked for the rights of the downtrodden in Zimbabwe, particularly in the 1980s. The Catholic Commission for Justice and Peace was instituted along the lines of the Pontifical Commission for Justice and Peace, whose many activities and endeavours made constant reference to the Universal Declaration of Human Rights and worked tirelessly to assist those whose rights had been violated, by making ecumenical collaborations with the United Nation, the World Council of Churches, and the Roman Papacy. The involvement of the CCJP in the investigations of the Matabeleland Massacres of the early 1980s and other human rights violations was the first direct entry of the Roman Catholic Church into post-independence politics of Zimbabwe. Cornish (2005), the Roman Catholic Church’s attitude to human rights, has come a long way since the French Revolution (1789), and that the defence of human rights is the will of God (p. 121). According to Pope John Paul II’s theological underpinnings:

> followers of Christ, who embraced the human condition, must be lovers of human condition, must be lovers of humanity and are called upon to imitate Him in defending the dignity and rights of every human person and of all peoples *(Everret, 2000, p. 121).*

Based on this argument, the Roman Catholic Church, through its affiliate institutions, justifies its involvement of campaigning against and investigations into any human rights violations of any kind. A number of issues were considered for including the CCJP into this Study. First, the church-related civic organisation brings along a long historical experience of fighting human rights violations during the colonial era. The authors see this experience as of vital importance to this Study. Second, the organisation is representative of religious-cum-legal thinking on human rights issues, especially given that the Roman Catholic bases its arguments of the protection of human rights on the Canon Law *(Mahwah, 1985, p.122).* Third, the CCJP is used to operating in politically-volatile situations such as during the colonial era when it guised its human rights endeavours as part of its ecumenical work.

It can, therefore, be acknowledged that few people today would doubt that the Catholic Church is a great champion of human rights *(Cornish, 1988, p.12)*, having started with the Lateran Treaty in Italy. The CCJP is an arm of the Roman Catholic Church and its mandate has been to explore the dispensation of justice to the underprivileged and promotion of human rights to all. According to Doornbos (1995), the Roman Catholic Church in Africa is one of the largest and relatively better-equipped bodies to take part in development efforts; often it is second to government in terms of capacity” (p. 266). Its involvement in human rights issues derive from the Roman Catholic Canon Law which recognises rights as emanating from the inherent dignity and equality of the human person and which are fundamental not only to life within the church, but also to life in civil society *(Doe,1996, p. 270).* This gave the Roman Catholic Church, as well as other church-related bodies in Zimbabwe the basis on which to show concern with both the welfare activities and the promotion of ecumenical dialogue. Michael (1995), attempts to align the church to the African cause by justifying “… the church’s adoption of a more militant orientation and closer identification with the African social world and its problematics…” (p. 270).

The 60s and 70s saw the formation of church-related institutions that were responsive to racist policies of the Rhodesian government. These institutions included the Christian Council, formed in 1964 to coordinate Christian work amongst the youth as well as to deal with the broader urban and township issues. These activities were later expanded to include moral, material, and financial support for detainees/restrictees and their families during times of strife *(Raftopolous, 2000, p. 27).* Similarly, Christian Care, founded in 1967 and a successor to the Christian Council, dealt with problems of detainees. A more vibrant and proactive Catholic Commission for Justice and Peace (CCJP), formed in 1972, became increasingly involved in documenting human rights abuses of the Rhodesian security forces. The CCJP did not only confine itself to human rights issues but broadened its horizon to include economic and social problems that affect the daily livelihood of the general public. During the second phase of ESAP *(1995-1999)*, a group of NGOs, under the leadership of the Ecumenical Support Services and the CCJP, embarked on a more proactive campaign by urging government to “…open up national debate, discussion on both ESAP 1 and the process and
content of ESAP 2” (Rich, 1998, p. 35). The churches, especially the Roman Catholic, under which the CCJP falls, and other human rights organizations became consistent in their critique of the state’s role in the Matabeleland civil conflict of the early 1980s. Together, the CCJP, the religious fraternity and human rights institutions have thus sought to limit the extension of unbridled state power on individual liberties (Mutambara 1991, p. 404).

The civil strife, which broke out soon after independence, provoked memories of the suffering, which people had experienced during the war. However, an altercation between the two major nationalist political parties for supremacy plunged the country into a civil war in the southern parts of the country from 1982-1987. Doornbos (1995) points out that “…during times of social crises, a fundamental social commitment, which is to contribute to the regaining of moral self-confidence and social stability, is expected of virtually any religious current and religious institution” (p. 268). Going by this argument, the CCJP was the first part of civil society to challenge the government to take steps to end the civil strife that the country found itself in. Unprecedented levels of human rights violations were perpetrated and many people died and thousands more were internally displaced. To establish the level of human rights violations, deaths, and displacements, the CCJP carried out investigations into the disturbances and established that over 20 000 people had been killed and many displaced (CCJP & LRF, 1987). It also called for government to institute a commission of inquiry into the killings and to bring perpetrators to book. The Church also played an integrating role by facilitating working relationships between and among different political and civic groups, which led to the formation of the Save Zimbabwe Campaign in 2007, a coalition of church-related organizations, under the leadership of the CCJP. The prayer rally jointly organized by the CCJP and various affiliates resulted in the brutalization of opposition political leaders, student leaders and leaders of the labour movement on 11 March 2007, and the castigation of church leaders by government. To this day, the CCJP has taken and still takes to court deserving cases involving unlawful arrest and detention or other abuses of human rights. It does not fund private actions between individuals but facilitates litigation against the state on behalf of the victims of political violence and other social injustices.

7. Conclusion

The Lateran Treaty in Italy paved the way for a transparent church-state interface that has sought to put the church as a panacea for human rights. Despite the fact that gross human rights violations have attracted negative international attention and impacted on national economies, human rights have remained an illusion where rulers still intend to cling to power at all costs. Despotic rulers, especially in Africa, have sought to cling to power in violation of international instruments on democracy. This has resulted in the use of unorthodox means of clinging to power, such as unwarranted constitutional amendments, political violence, and in recent times, the formation of governments of national unity (GNUs). This is a human rights violation in that the electorate has a right to choose who should preside over them and not rulers to be forced on the electorate. Human rights organizations became consistent in their critique of the state’s role in the Matabeleland civil conflict of the early 1980s.

References


Doornbos, M. (1995). The African State in Academic Debate: Retrospect’ Available at https://www.google.co.za/search?hl=en&noj=1&q=Doornbos+%281995%29+points+out+that%E2%80%9C%E2%80%96during+times+of+social+cr ises%2C+a+fundamental+social+commitment+is+to+contribute+to+the+regaining+of+moral+self-confidence,


