

# Contents

<b>1 The Linkages Between Corruption and Transitional Justice . . . . .</b>	<b>1</b>
1.1 General Introduction and Background . . . . .	2
1.2 Definition and Discussion of Terms . . . . .	5
1.2.1 Transitional Justice . . . . .	5
1.2.2 Socio-economic Rights . . . . .	9
1.2.3 Corruption . . . . .	11
1.3 Accountability Mechanisms . . . . .	14
1.3.1 Truth Commissions and Corruption . . . . .	14
1.3.2 Prosecutions and Corruption . . . . .	16
1.3.3 Amnesties and Corruption . . . . .	18
1.3.4 Reparations and Corruption . . . . .	21
1.3.5 Institutional Reforms and Corruption . . . . .	22
1.4 Conclusion . . . . .	23
References . . . . .	24
<b>2 Understanding Corruption and Human Rights . . . . .</b>	<b>27</b>
2.1 Introduction . . . . .	28
2.2 Preliminary Considerations . . . . .	29
2.2.1 Is Freedom from Corruption a Human Right? . . . . .	29
2.2.2 Is Corruption a Human Rights Violation? . . . . .	30
2.2.3 What Links Corruption to Transitional Justice? . . . . .	31
2.2.4 What Is the Distinction Between Socio-economic Rights and Issues? . . . . .	32
2.3 Overview of Corruption and Human Rights Methodologies . . . . .	33
2.3.1 Doctrinal-Research-Based Studies . . . . .	34
2.3.2 Empirical-Research-Based Studies . . . . .	36
2.3.3 Normative-Research-Based Studies . . . . .	37
2.4 Corruption and Specific Human Rights vis-à-vis the Right to Health . . . . .	38

2.4.1	Background . . . . .	39
2.4.2	Normative Content . . . . .	39
2.4.3	State Obligations and Violations . . . . .	40
2.5	Towards a Framework . . . . .	47
2.5.1	Step One: Analyse the Situation . . . . .	47
2.5.2	Step Two: Identify the Human Rights Obligations Being Violated . . . . .	48
2.5.3	Step Three: Determine the Causal Link . . . . .	48
2.5.4	Step Four: Attribution . . . . .	49
2.6	Conclusion . . . . .	50
	References . . . . .	50
<b>3</b>	<b>The Phenomenon of Corruption and Socio-economic Rights in Zimbabwe . . . . .</b>	<b>53</b>
3.1	Introduction . . . . .	54
3.2	Corruption . . . . .	54
3.2.1	Typology . . . . .	54
3.2.2	Legislative Framework . . . . .	57
3.2.3	Policy Framework . . . . .	61
3.2.4	Judicial Framework . . . . .	65
3.2.5	Compliance and Ranking . . . . .	65
3.3	Socio-economic Rights . . . . .	67
3.3.1	Typology . . . . .	67
3.3.2	Legislative Framework . . . . .	67
3.3.3	Policy Framework . . . . .	69
3.3.4	Judicial Framework . . . . .	70
3.3.5	Compliance and Ranking . . . . .	71
3.4	Corruption and Socio-economic Rights Violations: The Cholera Outbreak . . . . .	71
3.4.1	Hypothesis One: Politicisation . . . . .	72
3.4.2	Hypothesis Two: Cronyism . . . . .	73
3.4.3	Hypothesis Three: Prebendalism . . . . .	74
3.4.4	Hypothesis Four: Rent Seeking . . . . .	75
3.4.5	Hypothesis Five: Patrimonialism . . . . .	76
3.5	Conclusion . . . . .	77
	References . . . . .	78
<b>4</b>	<b>Revisiting Methods of Addressing Past Corruption and Human Rights Violations in Zimbabwe . . . . .</b>	<b>81</b>
4.1	Introduction . . . . .	82
4.2	First Phase: The Post UDI Period (1965–1979) . . . . .	82
4.2.1	Background . . . . .	82
4.2.2	Accountability Mechanisms . . . . .	84
4.2.3	Subsequent Developments . . . . .	85

4.3	Second Phase: Anti-Dissident Period (1981–1988) . . . . .	86
4.3.1	Background . . . . .	86
4.3.2	Accountability Mechanisms . . . . .	87
4.3.3	Subsequent Developments . . . . .	87
4.4	Third Phase: The Post-One-Party-State Period (1990–1995) . . . . .	88
4.4.1	Background . . . . .	88
4.4.2	Accountability Mechanisms . . . . .	89
4.4.3	Subsequent Developments . . . . .	89
4.5	Fourth Phase: State-Sponsored Violence Post-Mugabe (1998–2017). . . . .	89
4.5.1	Background . . . . .	89
4.5.2	Accountability Mechanisms . . . . .	90
4.5.3	Subsequent Developments . . . . .	92
4.6	Conclusion . . . . .	92
	References . . . . .	93
<b>5</b>	<b>Rethinking Ways of Dealing with Corruption Under Transitional Justice in Zimbabwe . . . . .</b>	<b>95</b>
5.1	Introduction . . . . .	96
5.2	The Civil Society and Justice in Zimbabwe Symposium . . . . .	97
5.2.1	Background . . . . .	97
5.2.2	Legal Basis . . . . .	99
5.2.3	Mandate . . . . .	99
5.2.4	Findings . . . . .	100
5.2.5	Special Remarks . . . . .	100
5.3	The Organ on National Healing, Integration and Reconciliation . . . . .	100
5.3.1	Background . . . . .	101
5.3.2	Legal Basis . . . . .	101
5.3.3	Mandate . . . . .	101
5.3.4	Findings . . . . .	102
5.3.5	Special Remarks . . . . .	103
5.4	The ILO Inquiry on Truth, Reconciliation and Justice in Zimbabwe . . . . .	103
5.4.1	Background . . . . .	104
5.4.2	Legal Basis . . . . .	104
5.4.3	Mandate . . . . .	104
5.4.4	Findings . . . . .	105
5.4.5	Special Remarks . . . . .	105
5.5	The National Peace and Reconciliation Commission . . . . .	106
5.5.1	Background . . . . .	106
5.5.2	Legal Basis . . . . .	106
5.5.3	Mandate . . . . .	106

5.5.4	Findings . . . . .	108
5.5.5	Special Remarks . . . . .	108
5.6	The National Transitional Justice Working Group of Zimbabwe . . . . .	109
5.6.1	Background . . . . .	109
5.6.2	Legal Basis . . . . .	109
5.6.3	Mandate . . . . .	110
5.6.4	Findings . . . . .	110
5.6.5	Special Remarks . . . . .	111
5.7	Universal Jurisdiction . . . . .	111
5.7.1	Background . . . . .	112
5.7.2	Legal Basis . . . . .	113
5.7.3	Mandate . . . . .	114
5.7.4	Findings . . . . .	114
5.7.5	Special Remarks . . . . .	114
5.8	Conclusion . . . . .	118
	References . . . . .	119
6	<b>Zimbabwe in a Comparative Perspective . . . . .</b>	<b>121</b>
6.1	Introduction . . . . .	122
6.2	Sub-Saharan Africa . . . . .	122
6.2.1	Background . . . . .	122
6.2.2	Law . . . . .	123
6.2.3	Practice . . . . .	124
6.3	Latin America . . . . .	129
6.3.1	Background . . . . .	129
6.3.2	Law . . . . .	130
6.3.3	Practice . . . . .	131
6.4	Asia . . . . .	132
6.4.1	Background . . . . .	132
6.4.2	Law . . . . .	133
6.4.3	Practice . . . . .	133
6.5	Central and Eastern Europe and the Former Soviet Union . . . . .	135
6.5.1	Background . . . . .	135
6.5.2	Law . . . . .	135
6.5.3	Practice . . . . .	136
6.6	Middle East and North Africa . . . . .	137
6.6.1	Background . . . . .	137
6.6.2	Law . . . . .	137
6.6.3	Practice . . . . .	138
6.7	Conclusion . . . . .	140
	References . . . . .	140

<b>7 Conclusion</b>	143
7.1 Introduction	144
7.2 Findings	145
7.2.1 Can Transitional Justice Mechanisms Address Corruption?	145
7.2.2 Is Corruption a Human Rights Violation?	146
7.2.3 Did Zimbabwe Violate Socio-economic Rights Through Corruption?	147
7.2.4 Should Transitional Justice in Zimbabwe Address Corruption?	147
7.3 Challenges	148
7.3.1 Broad Mandate	148
7.3.2 Pursuing Transitional Justice Without ‘Transition’	149
7.3.3 Polarised Environment	150
7.3.4 Methodology	151
7.3.5 Framing Reparations	151
7.4 Recommendations	152
7.4.1 Recommendation One: Inclusivity	152
7.4.2 Recommendation Two: Consultation	153
7.4.3 Recommendation Three: Comprehensive Approach	153
7.4.4 Recommendation Four: Synergies	153
7.4.5 Recommendation Five: Strengthen Anti-Corruption Mechanisms	153
7.5 Final Conclusion	154
References	155
<b>Table of Cases</b>	157
<b>Table of Legislation</b>	159
<b>Bibliography</b>	163
<b>Index</b>	173