

JUDICIAL SERVICE COMMISSION

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COUNTRY REPORT: ZIMBABWE

JUDICIAL DISPUTE RESOLUTION (JDR) PROCESS

2025

1. Introduction to Zimbabwe and Its Legal Framework

Overview of the country's legal system

- i. Zimbabwe's legal system is Roman-Dutch law with significant graftings of English common law. This is captured by the Constitution in section 192, which stipulates that the law to be administered by the courts of Zimbabwe is the law that was in force on the effective date, as subsequently modified. The effective date relates to 10 June 1891, where the law applying at the Cape of Good Hope was Roman-Dutch law influenced by English common law.¹

In terms of the hierarchy of laws, the Constitution is the supreme law and any law inconsistent with its provisions is void to the extent of its inconsistency. Section 2 of the Constitution provides that:

“(1) This Constitution is the supreme law of Zimbabwe and any law, practice, custom or conduct inconsistent with it is invalid to the extent of the inconsistency.

(2) The obligations imposed by this Constitution are binding on every person, natural or juristic, including the State and all

¹ L Madhuku, *An Introduction to Zimbabwean Law*, Weaver Press & Friedrich-Ebert-Stiftung, Harare, 2010.

executive, legislative and judicial institutions and agencies of government at every level, and must be fulfilled by them.”

Taken collectively, these provisions affirm that the Constitution holds ultimate authority over the substance and application of all laws in Zimbabwe, situating every source of law within a constitutional hierarchy in which conformity with the supreme law is a prerequisite for validity. The Constitution serves as the fundamental premise of legal reasoning, exerting a pervasive normative influence across the entire corpus of law. As the supreme law of the land, it not only determines the validity of legislation, common law, and customary law, but also directs the manner in which these sources are construed and applied by the courts.²

- ii. The court structure is hierarchical as provided for in terms of section 162 of the Constitution of Zimbabwe, as follows:

“162 Judicial authority

Judicial authority derives from the people of Zimbabwe and is vested in the courts, which comprise—

- (a) the Constitutional Court;

² A Moyo, *Basic Tenets of Zimbabwe's New Constitutional Order* (30 June 2022) <https://zimlil.org/akn/zw/doc/book-chapter/2022-06-30/chapter-2-basic-tenets-of-zimbabwes-new-constitutional-order/eng@2022-06-30> accessed 19 December 2025.

- (b) the Supreme Court;
- (c) the High Court;
- (d) the Labour Court;
- (e) the Administrative Court;
- (f) the magistrates courts;
- (g) the customary law courts; and
- (h) other courts established by or under an Act of Parliament.”

Constitutional Court

This Court is established in terms of section 166 of the Constitution. It is also governed by the Constitutional Act [*Chapter 7: 22*] and the Constitutional Court Rules, 2025. It is the highest court in all constitutional matters, meaning it has final jurisdiction in all matters involving constitutional interpretation. It is a specialist court whose jurisdiction is exclusively limited to constitutional matters.

Supreme Court

This Court is established in terms of section 168 of the Constitution. It is also governed by the Supreme Court Act [*Chapter 7:13*] and the Supreme Court Rules, 2025. It is the highest court of appeal in all non-constitutional matters. The Supreme Court also has review powers, which it can only invoke

mero motu where, during proceedings, an irregularity that occurred in the lower courts comes to light.³

High Court

This Court is governed by sections 170 and 171 of the Constitution as well as the High Court Act [*Chapter 7: 06*] and the High Court Rules, 2021. This court, has inherent jurisdiction. to hear any matter that is not subject to jurisdictional limits expressly provided for in the Constitution or any other subsidiary law. The Court also has supervisory power over the magistrates court and entertains reviews and appeals from the lower court.⁴

The High Court is also organised into different divisions, which serve as specialist courts to handle particular types of cases. The specialist divisions include the Children's Court, Commercial Court, Electoral Court, Income Tax Appeals Court, and Family Court.

Labour Court

³ See s 25 of the Supreme Court Act [*Chapter 07:12*].

⁴ Ibid

The Labour Court is a specialised court established in terms of section 172 of the Constitution. The court presides over labour and employment disputes as provided for in terms of the Labour Act [*Chapter 28:01*]. Its jurisdiction is limited by the Act and cannot determine matters that are not specifically provided for in terms of the Labour Act.

Administrative Court

The Administrative Court is a specialised court established in terms of section 173 of the Constitution. Its jurisdiction is established primarily in terms of the Administrative Court Act [*Chapter 07:01*], which enables the court to preside over appeals or reviews of decisions made by regulatory or administrative bodies and authorities. The Act also empowers the Court to entertain matters referred to it in terms of any other enactment, such as the Liquor Act [*Chapter 14:12*] and the Water Act [*Chapter 20:24*].

Magistrate Court

This is divided into civil and criminal magistrate courts that are presided over by magistrates. These courts are governed by the Magistrates Court Act [*Chapter 7:10*] and the Magistrate Courts Civil Rules, 2018. A magistrates court's authority is defined by three key factors: **(1)** the geographical area in which the offense

occurred, (2) the nature of the offense itself, and (3) the maximum penalty that the court is permitted to impose.⁵

Small Claims Court

This is the lowest court in terms of the formal justice structure in Zimbabwe. It allows individuals to resolve minor disputes without navigating the complexities or lengthy procedures of regular courts. These courts are established in terms of the Small Claims Court Act [*Chapter 7:12*].

Customary Law Courts

This court provides for the application of customary law in Zimbabwe. Its jurisdiction is regulated by the Customary Law and Local Courts Act [*Chapter 7:05*]. It stipulates that unless the justice of the case otherwise requires customary law shall apply in any civil case where (i) the parties have expressly agreed that it should apply, (ii) regard being had to the nature of the case and the surrounding circumstances, it appears that the parties have agreed it should apply and, (iii) regard being had to the nature of the case and the surrounding circumstances, it appears just and proper that it should apply.⁶ The Act also expressly outlaws the

⁵ Madhuku (n 1 above) 63.

⁶ See s 3 of the Customary Law and Local Courts Act [*Chapter 7:05*].

application of customary law in other matters save for civil cases as outlined in the foregoing.

- iii. Court annexed dispute resolution is not yet formalised as a comprehensive “JDR Process” but is fragmented in different Acts of Parliament and rules of court that apply in different courts. The most structured ADR processes are found in the Labour Act [*Chapter 28:01*], which provides for collective bargaining, conciliation, and arbitration.⁷

Pre-trial conferences and pre-trial case management are provided in the High Court Rules, 2021 and the High Court (Commercial Division) Rules, 2020, which apply in the High Court.⁸ Pre-trial conferences are also provided for in the magistrates court.⁹

In addition, the Arbitration Act [*Chapter 07:15*] also provides for arbitration proceedings in Zimbabwe, which are not facilitated by the courts. The Act however, lists the matters that cannot be determined by arbitration.¹⁰ The role of the High Court in arbitration includes enforcement of arbitral awards¹¹, setting

⁷ See ss24, 74 & 93 of the Labour Act [*Chapter 28:01*]

⁸ See r 49 of the High Court Rules 2021 & r 19 of the High Court (Commercial Division) Rules, 2020

⁹ See Order 19 Rule 1 (2), Magistrates Court (Civil) Rules, 2019.

¹⁰ See s 4 of the the Arbitration Act [*Chapter 07:15*].

¹¹ See Article 35 (1) of the first schedule to the Arbitration Act [*Chapter 7:15*].

aside arbitral awards¹², appointment of arbitrators at the request of parties¹³, granting interim measures during arbitration¹⁴ and granting leave for matters affecting interests of minors or a matrimonial matter relating to status, amongst others.¹⁵

2. Objectives of the JDR process

- a. The constitutional imperative in section 69 of the Constitution for the swift resolution of criminal and civil matters is the primary impetus for the introduction of JDR processes and the use of dispute resolution modalities.¹⁶ The need for efficient dispute resolution in commercial and labour matters has also been a key factor.
- b. To reduce case backlogs and litigation delays. To lower the financial and emotional cost of dispute resolution for parties. To promote consensual, restorative, and durable settlements. To improve access to justice and public confidence in the judicial system.

3. Legal Framework for the JDR process

¹² See Article 36 (1) of the first schedule to the Arbitration Act [*Chapter 7:15*].

¹³ See Section 11 and Section 15 of the Arbitration Act [*Chapter 7:15*].

¹⁴ See Article 8(1) of the first schedule to the Arbitration Act [*Chapter 7:15*].

¹⁵ See s 4 of the Arbitration Act [*Chapter 7:15*].

¹⁶ See s 69 of the Constitution of Zimbabwe.

a. The current legal framework for JDR process in Zimbabwe is not consolidated under a single framework. Reference has to be made to the following sources of law:

- Constitution of Zimbabwe: Section 69 (Right to a fair hearing).
- High Court Rules, 2021: Rule 49 – Pre-trial conferences for settlement.
- High Court (Commercial Division) Rules, 2020: Rule 19 – Pre-trial case management including settlement.
- Labour Act [*Chapter 28:01*]: Provides for negotiations, conciliation, and arbitration as primary dispute resolution channels.¹⁷
- Arbitration Act [*Chapter 7:15*]: Governs domestic and international arbitration; the High Court plays a regulatory role in respect of enforcement and appointment of arbitrators.¹⁸
- Magistrates Court (Civil) Rules, 2019: Provide for pre-trial conferences, offers and tenders in settlement.

¹⁷ Ibid

¹⁸ Ibid

- b. At present, there is no overarching legislation mandating or structuring a unified JDR process. Judicial mediation and early neutral evaluation occur under the general case management powers derived from court rules, not from specific statutes authorising Judges to act in traditionally non-adjudicative roles.

4. Details of the JDR Process

a. Description of the JDR process

- i. The JDR process in Zimbabwe is decentralised and court-specific as previously outlined:

High Court

Relies on Judge-driven pre-trial conferences and case management with a focus, where possible of reaching an amicable settlement between the parties.¹⁹

Labour Court

The Labour Act provides the most fully developed JDR process, which is applied in employment and labour disputes. In terms of the Act, conciliation is facilitated by labour officers or designated agents upon referral by the Labour Court or as a mandatory first

¹⁹ See High Court Rules, 2021.

step for labour officers.²⁰ Arbitration is provided for both as an optional and compulsory mechanism. If the parties before a labour officer are in agreement, a dispute may be settled by reference to arbitration.²¹ Arbitration may also be compulsory where a certificate of no settlement has been issued by a labour officer and the dispute relates to a dispute of interest and the parties are engaged in an essential service.²²

Magistrates court

The magistrates court relies on pre-trial conferences and settlement offers.²³

- ii. JDR processes that are facilitated through arbitration and by labour officers and designated agents are predominantly carried out in person. In respect of JDR processes facilitated by the courts, the hearings may be conducted virtually as provided for in terms of the applicable rules. For reference, the High Court Rules, 2021, in terms of rule 56A, provide for virtual hearings that, with

²⁰ See ss 89 & 93 of the Labour Act [*Chapter 28:01*].

²¹ See 93 of the Labour Act [*Chapter 28:01*]

²² Ibid.

²³ See Order 13 of the Magistrates Court (Civil) Rules, 2019.

the consent of the parties, may be utilised to facilitate pre-trial conferences and case management.

- iii. Judges and magistrates actively facilitate settlements in pre-trial conferences and case management. In the Labour Court, conciliation is performed by labour officers and designated agents.

b. Eligibility criteria for the JDR process

- i. In the Labour Court, conciliation is a mandatory preliminary step. In other courts, settlement processes are optional and incentivised, though Judges can strongly encourage participation. Pre-trial conferences and case management are mandatory procedural steps, which have settlement as one of their aims.
- ii. Courts typically recommend settlement processes early in the litigation cycle, especially during case management and pre-trial conferences.

c. Training of judges conducting the JDR process

The Judicial Training Institute of Zimbabwe (“JTIZ”) provides periodic training in ADR skills, mediation, and case management.

However, dedicated, large-scale JDR process training for the entire Judiciary is not yet institutionalised.

- d. Systematic, nationwide statistics on JDR effectiveness in Zimbabwe are limited. Internal registry reports however, suggest that pre-trial settlements dispose of a significant number of cases, particularly in the High Court's commercial division and the Labour Court. Empirical data on settlement rates, time saved, and cost reduction are not publicly consolidated.

5. Any other relevant information on the JDR process

The Judiciary in Zimbabwe is currently in the process of institutionalising court-annexed ADR in the courts. This is in respect of both civil and criminal matters. For criminal matters, plea bargaining is being contemplated through an amendment to the Criminal Procedure and Evidence Act [*Chapter 9:07*]. In respect of civil matters, mediation and conciliation are being contemplated in terms of an Act of Parliament that will apply across the entire judicial system.

JUDICIARY WEBSITE: <https://www.jsc.org.zw/>

