

**PETITION TO THE PRESIDENT OF ZIMBABWE, SADC, AU, UN AND
APPROPRIATE ORGANS UNDER THEM**

**We, the undersigned being individual lawyers and representatives of the
under mentioned Bar Associations from East Africa,**

Noticing that the Government of Zimbabwe is a signatory to the Regional and International Instruments guaranteeing the rule of law and independence of the judiciary such as the African Charter on Human and Peoples Rights (African Charter) and the International Covenant on Civil and Political Rights;

Conscious that Article 26 of the African Charter, compels State parties to the Charter to **guarantee the independence of the Courts** and allow the establishment and improvement of appropriate national institutions entrusted with the promotion and protection of the rights and freedoms guaranteed by the Charter.

Further conscious that Article 7 of the African Charter provides that every individual shall have the **right to have her/his cause heard** which includes the right to an **appeal to competent national organs** against acts of violating her/his fundamental rights as recognized and guaranteed by conventions, laws, regulations and customs in force; **the right to be presumed innocent until proved guilty by a competent court or tribunal**; the right to defense, including the **right to be defended by counsel of her/his choice**; and **the right to be tried within a reasonable time by an impartial court or tribunal**.

Note with grave concern the passage by the Parliament of Zimbabwe of Constitution of Zimbabwe Amendment (No.17) Bill and its implications and therefore;

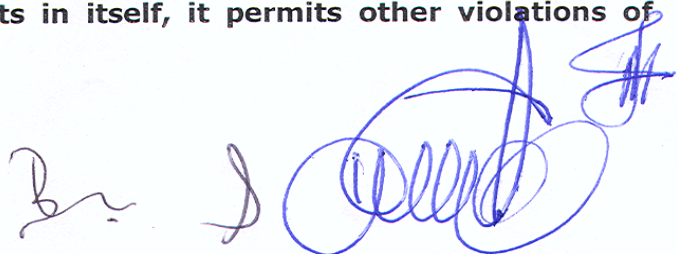

Do hereby state the following:

The Amendment seeks to effectively remove the fundamental rights to property, secure protection of the law and freedom of movement from the people of Zimbabwe.

The Amendment is a direct affront on basic human rights norms and standards and is a dereliction of the obligations of the State under section 1 of the African Charter on Human and Peoples' Rights (to which it is a State party) to **recognise the rights, duties and freedoms enshrined in the Charter and to undertake to adopt legislative and other measures to give effect to them**.

The African Charter guarantees all the rights which the State intends to remove by way of the Amendment.

We are particularly alarmed that the Bill intends to **oust the jurisdiction of the Courts** to deal with pending and future cases involving property disputes in particular land. This reminds us of the decrees that **Nigeria** passed during the military dictatorship which **ousted the jurisdiction of the courts** which the African Commission ruled in numerous cases as constituting **"an attack of incalculable proportions on article 7 of the African Charter. An attack of this sort on the jurisdiction of the courts is especially invidious, because while it is a violation of human rights in itself, it permits other violations of rights to go unredressed."**



The African Commission has also previously ruled that **the ousting of the jurisdiction** of the courts **threatens the independence of the judiciary and violates article 26** of the African Charter.

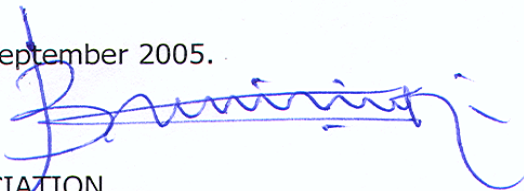
The Amendment effectively usurps the authority of the courts of Zimbabwe by denying the people of Zimbabwe recourse to the law in challenging State action which violates fundamental human rights. This puts paid to the principle of separation of powers, by allowing the Executive to initiate, implement and adjudicate upon its own actions ensuring that the State will not be scrutinised nor its actions reviewed by an independent and impartial tribunal.

The amendment will result in the complete removal of the functions of the Judiciary and denial of any form of protection whatsoever for the people who rely on the courts for protection in certain cases.

We call upon the President of Zimbabwe not to assent to the Bill in its present form until aspects that undermine the rule of law and enjoyment of universally recognised human rights and fundamental freedoms, as well as oust the jurisdiction and authority of the Courts are removed from the Bill.

We further call upon the SADC, AU and UN and appropriate organs under them to take immediate action to encourage the President of Zimbabwe not to sign the Bill into Law until aspects that undermine the rule of law and enjoyment of universally recognised human rights and fundamental freedoms, as well as oust the jurisdiction and authority of the Courts are removed from the Bill.

Signed at Addis Ababa this 9th September 2005.



EAST AFRICAN LAWYERS ASSOCIATION

UGANDA LAW SOCIETY

TANGANYIKA LAW SOCIETY

ZANZIBAR LAW SOCIETY

ETHIOPIA BAR ASSOCIATION

KENYA LAW SOCIETY

