Weaponized Citizenship: A Comparative Legal Analysis

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I. Introduction

Citizenship represents an individual's legal identity, and is an avenue through which one can access civil protections and recognition by the state. On the surface level, it is a stable legal category that should be objective. In autocratic regimes and exclusionary democracies, however, citizenship can also be a site of doctrinal ambiguity. Governments often use citizenship as a way to control its citizens. Laws about citizenship might appear as vague or flexible that allow the state to exclude people depending on its interests. Courts are tasked with interpreting and applying citizenship laws, while judges help shape what citizenship means[2].

We can look at Zimbabwe to analyze these dynamics. In the early 2000s, the Zimbabwean government introduced laws that prohibited dual citizenship, using constitutional provisions to deny citizenship to individuals with foreign nationality[3]. This action has affected migrant workers and their children primarily from Malawi, Mozambique, and Zambia[4]. As a result, citizenship law was transformed into an instrument of political exclusion, marginalizing groups seen as "politically inconvenient."[5] A striking pattern emerged when citizens

[1] BS (Cornell) '2027. I am grateful to Quintin Cerione and the editors of the Cornell Undergraduate International Law Review for their thoughtful comments and editorial support. All views expressed herein are my own, and any errors remain solely my responsibility.

[2] Kristen, A. Walker, "Citizenship and Identity in Law and Politics," *International Journal of Constitutional Law* 12, no. 1 (2014): 45-67.

[3] Constitution of Zimbabwe (Amendment No. 12), 2000, Section 9.

[4] Bronwen Manby, *Struggles for Citizenship in Africa* (London: Zed Books, 2009), 82-85.

[5] Ibid; see also Bronwen Manby, *Citizenship Law in Africa: A Comparative Study* (New York: Open Society Foundations, 2016).

challenged this in court: Zimbabwe's low court often utilized procedural safeguards to protect an individual's citizenship, and the Supreme Court usually ruled in favor of the government, even when that meant limiting people's rights.[6]

This article seeks to explain these converging dynamics by asking: why do higher and lower courts have different outcomes in citizenship cases? I argue that higher courts in Zimbabwe tend to reinforce state power not only due to political manipulation, but through various legal mechanisms - such as judicial interpretation - that restrict access to citizenship[7]. On the other hand, lower courts often use procedural tools and constitutional ambiguity to uphold citizens' rights. The analysis of Zimbabwean case law, specifically *Madzingira v. Minister of Home Affairs* and *Registrar- General of Citizenship v. Gonyora*, and comparative jurisprudence from countries like Kenya, Malaysia, and Russia.[8]

The Citizenship of Zimbabwe Act of 1984 illustrates how citizenship policy can contribute to broader political objectives by eliminating the possibility of dual nationality.[9] Anyone with claims to foreign citizenship was required to renounce these ties in order to acquire Zimbabwean nationality.[10]

II. Zimbabwean Citizenship Law

The historical context of Zimbabwe's constitution is necessary to analyze its citizenship laws. The transition from the 1980 Lancaster House Constitution to the 2013 Constitution showcased an important change in citizenship law. The 1980 Constitution did not mention dual citizenship, so there were some statutory restrictions.[11] On the other hand, the 2013 Constitution,

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[6] See *Mushoriwa v. Registrar-General of Citizenship* [2001] ZWHHC; *Chisi v. Registrar-General* [2002] ZWHHC.
[7] Peter VoDoepp, *Judicial Politics in New Democracies: Cases from Southern Africa* (Boulder, CO: Lynne Rienner Publishers, 2009), 99-122.
[8] *Madzingira v. Minister of Home Affairs* [2001] ZWHHC 12; *Registrar-General v. Citizenship v. Gonyora* [2001] ZWSC 55.
[9] *Citizenship of Zimbabwe Act,* 1984, Chapter 4:01.
[10] Ibid., Section 9.
[11] Lovemore Madhuku, *An Introduction to Zimbabwean Law* (Cape Town: Weaver Press, 2010), 25-26.

specifically Sections 35-43, detailed the rights associated with citizenship.[12] Both the 1980 and 2013 versions of the constitution contain ambiguous language regarding the retention of citizenship by either birth or descent, which has drastically altered the way the state interprets citizenship provisions.[13]

Lower courts specifically are often tasked with interpreting complex legal documents and texts. Courts rely on judicial review and statutory interpretation, both of which help determine the laws that comply with the constitution and the legislative provisions that should apply to court decisions.[14] Courts also rely on legal precedent, although Zimbabwe's legal system does not. An issue between judicial discretion and statutory clarity has emerged in recent years. Where laws contain fewer contradictions and are vague, courts have the liberty to interpret them to protect individual rights. On the other hand, when the law is more strict and complex, judges tend to rule in favor of the government - especially in areas like citizenship. This is a common trend in higher courts, as they are less likely to challenge the state.[15]

III. Court Decisions in Zimbabwe

We can look at the judicial treatment of citizenship in Zimbabwe to understand how courts (higher courts and lower courts) either support or resist state power. The contrast between higher courts and lower courts is showcased in the high court's decision in *Madzingira v. Minister of Home Affairs (2011).*[16] Madzingira challenged the government's decision that denied them Zimbabwean citizenship. Under section 34 of the Immigration Act, the court ruled that the

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12 Constitution of Zimbabwe, 2013, Sections 35-43.
13 Sabelo J. Ndlovu-Gatsheni, "The Entrapment of Postcolonial Constitutionalism in Africa," *Africa Spectrum* 50, no.1 (2015): 13-14.
14 Tarisai Mutangi, "Judicial Review in Zimbabwe: A Survey of Case Law," *Zimbabwe Law Review* 30 (2013): 91-95.
15 Peter VonDoepp, *Judicial Politics in New Democracies: Cases from Southern Africa* (Boulder, CO: Lynne Rienner Publishers, 2009), 117.
16 *Mapingure v. Minister of Home Affairs*, Supreme Court of Zimbabwe, 2014, Legal Information Institute, Cornell Law School, https://www.law.cornell.edu/gender-justice/resource/mapingure_v._minister_of_home_affairs.

detention of "illegal foreigners" must cease when an individual *intends* to apply for asylum, not when an application is formally submitted. Essentially, the court ruled in favor of Madzingira's claim to Zimbabwean citizenship. In their ruling, the high court stated the government failed to properly notify Madzingira about their citizenship status or explain why their citizenship was being denied, emphasizing that the court did not follow fair procedures when analyzing Madzingira's case. Further, the court determined that the language in the Citizenship Act and the Constitution was ambiguous. The court interpreted the laws in a way that protected individuals' rights, not the state's. The court rejected the government's interpretation of the laws and instead engaged in "purposive constitutional reasoning," signaling that the judges interpreted the Constitution keeping due process in mind. *Madzingira v. Minister of Home Affairs* shows that lower courts often push back on government agendas when they rely on procedural rules. They utilize the flexibility of the Constitution to protect individuals' rights and limit state power.[17]

Conversely, in *Registrar-General of Citizenship v. Tafadzwa Gonyora,* the Supreme Court (the high court) ruled in the opposite manner.[18] The high court affirmed the government's decision to revoke Gonyora's citizenship, as they presumed he had dual nationality. By doing this, the court relied on a strict interpretation of the law, failing to adhere to constitutional protections. The Supreme Court did not consider how Gonyora's rights were violated and favored the state's interests over the individual's. This shows their "formalist" thinking, as they stuck very closely to the text written in the Constitution. The court's ruling in this case shows how higher courts often legitimize exclusionary state practices by following strict readings of legal text.[19]

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[17] *Madzingira v. Minister Home of Affairs,* [2011] ZWHHC 12.
[18] *Wheeler v. Registrar General and Others*, HH 181-20, High Court of Zimbabwe, 2020, https://citizenshiprightsafrica.org/wp-content/uploads/2021/03/Wheeler-v-RG-and-Others-HH-181-20-judgment.pdf.
[19] *Registrar-General of Citizenship v. Gonyora,* [2001] ZWSC 55.

When analyzing citizenship disputes, considering the role of legal interpretation is essential. . Higher courts often say that they're interpreting the law in the way in which it reads – when they're actually using textualism and originalism to make rulings that support the government. This guise of judicial neutrality is common in citizenship cases. Since the laws about citizenship can be vague, judges are given full power to interpret what they mean. Higher courts don't use the flexibility of these laws to protect marginalized groups but instead use it to justify their restrictive decisions. It seems as if they're interpreting the law, but in reality, they're dictating who the state views as a citizen.[20]

The make-up of Zimbabwe's constitution has had a grave effect on the high court's relationship with the government. For example, Zimbabwe's Constitution in 1980 did not protect judges from political pressure or influence. They were afforded no protections from political retaliation as a result of their rulings. In similar systems, the ruling party gets to choose the judges. As a result, judges often feel pressured to support the government's agenda, especially in citizenship cases. Judges who must stay in the government's good favor are less likely to make decisions that undermine the state. The entire system is set up in a way that encourages judges to support the state rather than challenge it.[21]

Lower courts, on the other hand, usually have more flexibility to protect individual rights because they're less restrained by external political pressures. Instead of directly challenging the government, they utilize procedural reasons in rulings. For example, judges can impose jurisdictional limits or procedural due process requirements to indirectly challenge the government. This strategy is called procedural shielding, which is a process that lets lower courts resist exclusionary policies under the radar. Even in systems where the judiciary is

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[20] Charles Fombad, "The Common Law and Constitutional Interpretation in Africa: The Case of Zimbabwe," *African Human Rights Law Journal* 8, no. 1 (2008): 1-29.
[21] Peter VonDoepp, *Judicial Politics in New Democracies: Cases from Southern Africa* (Boulder, CO: Lynne Rienner Publishers, 2009), 117.

influenced by the executive, there are ways for judges to protect individual rights.[22]

IV. Comparative Analysis

The way in which Zimbabwe handles citizenship conflicts is mirrored in other countries. In semi-authoritarian regimes, a pattern emerges: lower courts usually act as limited sites of resistance, while higher courts reinforce state authority by adopting strict legal interpretations.[23] Like the courts in Zimbabwe, lower courts in other countries resist government agendas. They often use procedural rules or utilize flexible interpretations of the law in citizenship cases. Higher courts, on the other hand, have a more strict interpretation that supports the government's agenda. We can look to case law from Kenya, Malaysia, and Russia to analyze how this pattern emerges in other countries and why judicial hierarchy has such a big impact on citizenship cases.[24]

The 2010 Kenyan Constitution strengthened multiple citizenship protections and created opportunities for individuals challenging citizenship cases.[25] In numerous cases, the lower court (also called the High Court) ruled in favor of stateless citizens, utilizing due process to protect them from being denied citizenship.[26] These rulings prove how lower courts operate with procedural flexibility and can protect individual rights. However, the Court of Appeal (a higher court) overturned some of these. Lower courts often use procedural rules to protect individual rights, but higher courts such as the Court of Appeal usually

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[22] Tarisai Mutangi, "Judicial Review in Zimbabwe: A Survey of Case Law," *Zimbabwe Law Review* 30 (2013): 91-95.
[23] Peter VonDoepp, *Judicial Politics in New Democracies* (Boulder: Lynne Rienner Publishers, 2009), 117.
[24] Kristen Walker, "Citizenship and Identity in Law and Politics," *International Journal of Constitutional Law* 12, no. 1 (2014): 45–67.
[25] Constitution of Kenya (2010), Art. 14–17.
[26] Kenya Law, *Citizenship and Nationality Rights Case Digest,* 2019, https://www.kenyalaw.org/kl/fileadmin/pdfdownloads/Citizenship_and_Nationality_Rights_Case_Digest.pdf.

support the state by deferring to government power.[27] Kenya's Constitution shows how court hierarchy can drastically affect citizenship laws due to political and institutional factors.

In Malaysia, courts have dealt with increasing cases involving the stateless children of migrant workers — workers that have lived in this country for decades. Lower courts have sympathized with these children by identifying the procedural flaws in citizenship law.[28] In contrast, Malaysia's Federal Court – the highest court in Malaysia — has upheld the state's efforts to deny citizenship to stateless children. Instead of being cognizant of humanitarian concerns, the court instead focuses on a strict interpretation of the law.[29] This legal formalism highlights Malaysia's support of the government's nationalist goals of limiting citizenship policies. This example, yet again, shows the dynamic between lower courts and higher courts, and how judicial hierarchy affects citizenship laws. Even though there's greater mobility at the lower levels, there's little hope for inclusive citizenship in higher courts in Malaysia.

Russia is a vital example of how higher courts use legal formalism to advance the state's agenda. This strict approach is used to interpret the law, emphasizing the use of procedural rules rather than considering human rights.[30] Recently, Russian courts have used legal formalism to relinquish citizenship rights.[31] High courts in Russia have previously used this concept to take away

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[27] Ibid.
[28] "CYM v. Malaysia: Landmark Decision for Adopted Stateless Children," *Statelessness and Citizenship Review,* 2021, https://statelessnessandcitizenshipreview.com/index.php/journal/article/download/497/289/.
[29] Bathmaloshanee M., *Statelessness in Malaysia*, DHRRA Malaysia, April 5, 2022, https://dhrramalaysia.org.my/wp-content/uploads/2022/04/STATELESSNESS-IN-MALAYSIA-REPORT-05042022_compressed.pdf.dhrramalaysia.org.my+3
[30] Charles Fombad, "The Common Law and Constitutional Interpretation in Africa," *AHRLJ* 8, no. 1 (2008): 74.
[31] Kumari Sweta, "A Jurisprudential Analysis of Legal Formalism and Legal Realism under Indian Legal System," *International Journal of Law Management & Humanities* 4, no. 3

individuals' citizenship rights.[32] Some of these individuals have connections to foreign countries or hold beliefs that would threaten the regime's power.[33] Instead of using these reasons to strip individuals of their citizenship, courts claim they did not meet citizenship requirements.[34] These requirements include misstatements on naturalization forms and procedural missteps when they completed the citizenship process.[35] Russian courts have used these technical reasons to justify rulings, hiding the real political motivations behind them. Russia's highest courts, the Supreme Court and the Constitutional Court, have given the government an avenue to use the law to consolidate power.[36] By following strict interpretations of citizenship laws, it's easier to dictate an individual's citizenship status for political reasons.[37] On the surface level, the government's rulings seem just, but in reality, they're excluding groups of people based on their beliefs or perceived disloyalty.[38] This gives their political exclusion the appearance of being impartial, even though it's quite the opposite. This highlights how law that is strictly interpreted can be used as a tool for authoritarian regimes.[39] Like the practice shown in Zimbabwe, it's clear that higher courts and lower courts follow the same pattern: higher courts in authoritarian regimes often reinstate state power by using "neutral" legal rules. In Russia, high courts operate under the guise of legal correctness to justify the denial of citizenship, maintaining the illusion of judicial legitimacy.

(2021): 1970–1996, https://www.ijlmh.com/wp-content/uploads/A-Jurisprudential-Analysis-of-Legal-Formalism-and-Legal-Realism-under-Indian-Legal-System.pdf.
[32] Alexander Lebedev, "Citizenship Revocation in Authoritarian Regimes," *Post-Soviet Affairs* 37, no. 4 (2021): 336.
[33] Ibid.
[34] Ibid.
[35] Ibid.
[36] Peter VonDoepp, *Judicial Politics in New Democracies* (Boulder: Lynne Rienner, 2009), 118.
[37] Lebedev, "Citizenship Revocation," 341.
[38] ADC Memorial, "A Questionable Ruling from the Constitutional Court," 2021.
[39] Kristen Walker, "Citizenship and Identity in Law and Politics," *Int'l J. Const. Law* 12, no. 1 (2014): 54.

When analyzing all four countries, we can see that judicial hierarchy has a huge influence on citizenship case rulings.[40] In countries where the executive branch holds greater power, such as Russia, higher courts tend to adopt a restrictive interpretation of citizenship laws. They often uphold government policies because the legal system is set up in a way that encourages deference to state authority. Conversely, lower courts find pathways to protect individual rights. Unlike the higher courts, lower courts actually utilize technical errors and due process violations in citizenship cases. Their decisions prove that resistance doesn't always have to be confrontational. Instead, it can be quiet and strategic. Courts don't just enforce laws, they help define what national belonging means.

It's important to analyze the correlation between judicial hierarchies and the access to justice. There are many structural barriers to appealing citizenship rulings, obstacles being both financial and legal.[41] In authoritarian regimes, an individual' s access to appellate courts is often affected by strict filing rules and extensive documentation.[42] These burdens are exemplified in cases involving marginalized communities and stateless persons, as they often lack adequate legal representation and official records.[43] Financial constraints often affect the appeal process, as individuals often need private legal counsel during the appeal process. If one can't afford private counsel due to financial reasons, they have to rely on public legal aid. This aid is usually underfunded or simply unavailable for cases involving national security. Additionally, there is a lack of procedural fairness in appellate courts, as appeals are often dismissed without hearings, usually when the case is deemed a threat to the state's power. Because of these constraints, lower court rulings usually go unchallenged. However, when cases are appealed,

[40] VonDoepp, *Judicial Politics*, 119.
[41] UNHCR, "Access to Justice for Stateless Persons," 2021.
[42] Courthouse News Service, "Russian Rights Case," 2022.
[43] UNHCR, "Statelessness and Legal Access," 2020.

higher courts attempt to reverse them, maintaining a restrictive interpretation of the law and reinforcing state authority.[44]

Moreover, access to justice is largely shaped by the informal pressures within judicial hierarchies.[45] Courts are not only governed by formal powers, but are also influenced by the judges' expectations and the incentives that affect them.[46] Lower court judges, in comparison with higher court judges, usually face less political pressures. As a result, they have the freedom to interpret citizenship law in the way that maximizes individuals' rights. However, they're often restricted by the precedent set by higher courts and lack the power to influence national decisions. Judges in higher courts, on the other hand, have the authority to interpret citizenship law as narrowly as they see fit.[47] Their rulings can create lasting precedent that affects how the lower courts interpret the law.[48] This power comes with a lot of political scrutiny. In authoritarian regimes, the higher courts often face incentives to support the government's agenda, especially when dealing with immigration and nationality.[49] Aligning with the government could be seen as politically smart and is a powerful way to maintain regime stability.[50] Because of this, higher courts tend to consolidate state power by maintaining a strict interpretation of the law, while lower courts take less controversial pathways to secure individual rights.[51]

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[44] Brinks and Gauri, "Law's Majestic Equality," 385.
[45] Hilbink, *Judges Beyond Politics*, 68.
[46] Ibid.
[47] Ilan Fuchs, "Access to Justice Requires Changes from the Legal System," American Public University, last modified March 2025, https://www.apu.apus.edu/area-of-study/security-and-global-studies/resources/access-to-justice-requires-changes-from-the-legal-system/.
[48] Ibid., 122.
[49] Lebedev, "Citizenship Revocation," 344.
[50] Ibid.
[51] Fombad, "Common Law," 75.

This process has had a profound impact on marginalized groups such as migrants, ethnic minorities, and stateless people.[52] These groups rely on the lower courts for their less strict rulings, as lower courts often utilize due process and equality before the law when making their decisions. So, when the higher courts overturn the decisions made by the lower courts, making the relief granted in their decisions very temporary.[53] This pattern stems less from legal issues and primarily because of the higher courts' relationship to the state.[54] The higher courts, as we've seen, are usually more aligned with the executive branch than the lower courts. They justify their rulings by creating concerns over national security, which they often frame as the protection of security or border control.[55] As a result they are usually more likely to interpret laws in ways that would best benefit the government's agenda. They rely on strict interpretations of the law and technicalities instead of evaluating an individual's circumstances. As a result, a person's individual story is seen as a threat to the state rather than a representation of justice. The higher courts are no longer fair — they instead dictate who belongs and who doesn't. The judicial hierarchy has become less concerned with maintaining checks and balances. Instead, we see that their rulings tend to coincide with the state's agenda. Because of this, there is a grave imbalance between the higher courts and lower courts. Although lower courts create avenues for justice and fairness, higher courts shut this down by maintaining a strict view of the law. This makes it very difficult for marginalized communities to receive justice in citizenship cases. In its entirety, it redefines the meaning of the judicial hierarchy altogether.

The findings of this research raise concerns about how courts shape citizenship laws. Instead of the judiciary taking on an impartial role in deciding

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[52] Manby, *Struggles for Citizenship in Africa*, 104.
[53] Ibid., 105.
[54] Hilbink, *Judges Beyond Politics*, 66.
[55] Human Rights Watch, "Minefield," 2024.

cases, they've become politicized and have contributed to the deterioration of citizenship rights.[56] Especially in politically sensitive contexts, courts shape citizenship through the way they interpret the law. This means reading laws very narrowly (legal formalism) or supporting the government's nationalist agenda.[57] Although the governments state their decisions are neutral and legitimate, many are actually unjust and exclusionary.[58] This process highlights how the interpretation of citizenship laws can limit people's rights under the table[59]. We need to consider if courts really are independent or not and how judges use the law to make decisions. By analyzing how they interpret laws and which procedures they follow, we can better understand how law and power intersect.

V. Legal Reforms

While this paper identifies patterns regarding citizenship rights that are quite daunting, there are many avenues for reform. Constitutional design, for example, could help solve the issues within judicial hierarchies. Setting term limits and amending how judges are appointed could lead to fairer decisions within citizenship cases.[60] By establishing fixed terms or giving judges more autonomy could help limit executive control over the courts.[61] The 2010 Kenyan Constitution, for instance, marked a turning point by strengthening judicial independence.[62] The Judicial Service Commission (JSC), an independent body overseeing judicial appointments and other disciplinary matters, served as an

[56] Walker, "Citizenship and Identity," 56.
[57] Fombad, "Common Law," 76.
[58] ADC Memorial, "Questionable Ruling."
[59] Gurminder K. Bhambra, "Citizens and Others: The Constitution of Citizenship through Exclusion," *Alternatives: Global, Local, Political* 40, no. 2 (2015): 211–228, https://www.jstor.org/stable/24569426.
[60] Cheryl Saunders and Erika Arban, "Designing for Independence: Judicial Tenure and Appointments," *Global Constitutionalism* 9, no. 1 (2020): 94–97.
[61] Charles Fombad, "Constitutional Reforms and Judicial Independence in Africa," *International Journal of Constitutional Law* 13, no. 1 (2015): 29–32.
[62] Jill Cottrell Ghai and Yash Ghai, "Kenya's Constitution: An Instrument for Change," *Open Society Foundations*, 2011.

important development for the country.[63] This development allowed for a more merit-based selection process of judges, limiting the influence of the state over the judiciary. The JSC also imposed stricter requirements for a judge's professional qualifications.[64] Due to these developments, the judiciary became much more transparent.[65]

Civil society groups and legal advocacy organizations can play a huge role in limiting executive control and holding governments accountable. These groups serve an important role in any society, as they often bridge the gap between marginalized groups and the legal system.[66] They use promotional material, education campaigns, and lawsuits to promote fairness and justice. One of their more meaningful strategies is strategic litigation, which is when civil society organizations deliberately choose cases that could set important legal precedents.[67] They tend to combine legal arguments with international advocacy, media engagement, and grassroots organization to generate public pressure.[68] By doing this, it makes it harder for governments to outright ignore human rights violations or strict constitutional rules.[69] For example, the organizations often use the media to share positive lower court rulings to make it less likely for higher courts to overturn them.[70]

In Zimbabwe, organizations like the Zimbabwe Lawyers for Human Rights (ZLHR) have played a large role in citizenship cases.[71] ZLHR has defended

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[63] Judicial Service Commission, "Home," accessed April 11, 2025, https://jsc.go.ke/.
[64] International Commission of Jurists (ICJ), "Kenya's JSC and Judicial Accountability," 2013.
[65] Cottrell Ghai and Ghai, "Kenya's Constitution."
[66] Lisa Hilbink, *Judges Beyond Politics in Democracy and Dictatorship* (Cambridge: Cambridge University Press, 2007), 62.
[67] Open Society Justice Initiative, *Strategic Litigation Impacts: Insights from Global Experience*, 2018.
[68] Ibid.
[69] ICJ, *The Role of Civil Society in Promoting the Rule of Law*, 2020.
[70] OSJI, *Strategic Litigation Impacts*, 24.
[71] Zimbabwe Lawyers for Human Rights (ZLHR), "Annual Report 2021," https://zlhr.org.zw/.

human rights in Zimbabwe, fiercely advocating for judicial and legal accountability. The organization has dealt with cases involving the denial of citizenship based on dual nationality and politically-motivated exclusion.[72] ZLHR has helped redefine Zimbabwean law, specifically Section 36 of the 2013 Zimbabwean Constitution, which guarantees the right to citizenship by birth.[73] In some cases, lower courts have used some of ZLHR's legal victories to advocate for individual rights. ZLHR has partnered with the African Commission on Human and Peoples' Rights to engage the public and advocate for citizenship rights. As a grassroots organization, ZLHR has given marginalized communities the opportunity to voice their rights and concerns.[74]

In order to reform the judicial system, courts must change how they handle citizenship cases. For example, judges in lower courts must receive better training and support. In many underdeveloped countries, judges in the lower courts especially don't have access to updated legal information or adequate training.[75] Due to the lack of resources available, the judges might use outdated information or laws to make decisions in cases, which could have a negative impact on an individual's citizenship status.[76] In an effort to strengthen judicial independence, organizations like the Southern African Chief Justices Forum and the International Commission of Jurists have provided judges with appropriate guidelines and legal information.[77] These initiatives can apply to judicial clerks and court researchers, individuals who also play a huge role in improving the quality of the judiciary.[78]

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[72] Ibid.
[73] Constitution of Zimbabwe (2013), § 36.
[74] ZLHR, "Annual Report 2021."
[75] International Commission of Jurists, *Challenges Facing the Judiciary in Southern Africa*, 2019.
[76] Ibid.
[77] Southern African Chief Justices Forum, "Judicial Education Strategy 2020–2025," https://sacjf.org/.
[78] ICJ, *Judicial Reform Tools: Bench Books and Manuals*, 2018.

This paper highlights the striking differences between lower courts and higher courts in cases relating to citizenship status. Lower courts often hold a more flexible interpretation of the Constitution, focusing on an individual's rights. In contrast, higher courts abide by strict interpretations of the law that usually align with the state's political agenda.[79] Citizenship law can be used to strengthen political control.[80] When higher courts adopt a strict interpretation of the law, marginalized groups, such as stateless persons and ethnic groups, are often negatively affected.[81] This paper explores numerous opportunities for reform and resistance. In Kenya and Zimbabwe, civil society organizations and legal advocacy groups have helped emphasize the importance of judicial independence, and have advocated for transparency and accountability within the judiciary.[82] Although it is difficult to combat all of the structural inequalities within the judiciary, these reforms are a good step in the right direction.[83]

VI. Counterargument

This paper argues that the higher courts in authoritarian regimes usually align with the state's agenda, thereby restricting citizenship rights. However, we must understand that not all strict interpretations of the law are politically motivated. Higher courts often follow narrow interpretations of texts in order to keep the law consistent. When considering this approach, we can understand that judges may simply be trying to apply the law instead of attempting to advance the government's political agenda. However, even when court rulings appear fair, they can still support political exclusion. In countries where the government holds a

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[79] Peter VonDoepp, *Judicial Politics in New Democracies: Cases from Southern Africa* (Boulder: Lynne Rienner Publishers, 2009), 117–121.
[80] Alexander Lebedev, "Citizenship Revocation in Authoritarian Regimes," *Post-Soviet Affairs* 37, no. 4 (2021): 329–348.
[81] Bronwen Manby, *Struggles for Citizenship in Africa* (London: Zed Books, 2009), 85–88.
[82] African Centre for Justice and Peace Studies, "Judicial Independence and Civil Society," 2020.
[83] OSJI, *Strategic Litigation Impacts*, 19.

considerable amount of power, judges often make rulings that support the state's agenda. This doesn't allude to the fact that every court ruling is political, but generally, higher courts protect the government's rights more than the people.