



# Convention on the Rights of the Child

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Committee on the Rights of the Child

## Consideration of reports submitted by States parties under article 44 of the Convention

Second periodic reports of States parties due in 2002

**Zimbabwe\***

[Date received: 27 May 2013]

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## Contents

	<i>Paragraphs</i>	<i>Page</i>
Acronyms .....		4
Foreword .....	1–7	5
Executive summary .....	8–27	6
Part One Committee’s concluding observations on the initial report and the response by Zimbabwe.....	28	9
Part Two State party report.....	29–417	19
I. General measures of implementation (arts. 4, 42 and 44, para. 6) .....	29–81	19
A. Legislative, administrative and other measures (art. 4) .....	29–40	19
B. Economic, social and cultural measures (art. 4) .....	41–52	21
C. Publication of the principles and provisions of the Convention (art. 42).....	53–56	24
D. Wide dissemination of the report to the public (art. 44, para. 6).....	57	24
E. Status of the Convention in domestic law.....	58–62	24
F. Implementation and monitoring mechanisms on the rights of children.....	63–73	25
G. The principle of the best interest of the child in budgetary allocations .....	74	28
H. Measures taken or foreseen to publicise the provisions of the Convention (art. 42) .....	75–81	29
II. Definition of the child (art. 1) .....	82–124	30
A. General definition .....	82	30
B. Definition and description of “child” under different themes.....	83–124	30
III. General principles .....	125–160	36
A. The principle of non-discrimination (art. 2).....	125–138	36
B. The principle of the best interests of the child (art. 3) .....	139–147	37
C. The rights to life, survival and development (art. 6).....	148–150	39
D. Respect for the views of the child (art. 12).....	151–160	39
IV. Civil rights and freedoms (arts. 7, 8, 13–17 and 37 (a)).....	161–213	41
A. Names and nationality (art. 7).....	161–174	41
B. Preservation of identity (art. 8).....	175	43
C. Freedom of expression (art. 13).....	176–179	43
D. Freedom of thought, conscience and religion (art. 14) .....	180–187	43
E. Freedom of association and peaceful assembly (art. 15) .....	188–194	44
F. Protection of privacy (art. 16).....	195–198	45
G. Access to appropriate information (art. 17) .....	199–20	46
H. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (art. 37 (a)).....	211–213	47

V.	Family environment and alternative care (arts. 5; 18, paras. 1–2; 9–11; 19–21; 25; 27, paras. 4 and 39) .....	214–261	47
	A. Parental guidance (art. 5) .....	215–221	47
	B. Parental responsibilities (art. 18, paras. 1–2) .....	222–226	49
	C. Separation from parents (art. 9) .....	227–229	49
	D. Family reunification (art. 10) .....	230–232	50
	E. Illicit transfer and non-return (art. 11) .....	233–240	50
	F. Recovery of maintenance for the child (art. 27, para. 4) .....	241	52
	G. Children deprived of their family environment (art. 20) .....	242–249	52
	H. Adoption (art. 21) .....	250–251	53
	I. Abuse and neglect (art. 19), including physical and psychological recovery and social reintegration (art. 39) .....	252–259	53
	J. Awareness raising .....	260–261	54
VI.	Basic health and welfare (arts. 6; 18, para. 3; 23; 24; 26; 27, para. 1–3) .....	262–324	55
	A. Children living with disability (art. 23) .....	262–273	55
	B. Health and health services (art. 24) .....	274–311	57
	C. Social security, childcare services and facilities (arts. 26 and 18, para. 3) ....	312–318	64
	D. Standard of living (art. 27, paras. 1–3) .....	319–324	66
VII.	Education, leisure and cultural activities (arts. 28, 29 and 31) .....	325–370	67
	A. Education, including vocational training and guidance (art. 28) .....	325–367	67
	B. Aims of education (art. 29) .....	368–370	76
VIII.	Special protection measures (arts. 22; 38; 39; 40; 37 (b)–(d); 32–36) .....	371–408	76
	A. Children in situations of emergency .....	371–382	76
	B. Children in situations of exploitation, including physical and psychological recovery and social integration .....	383–408	78
IX.	Implementation and monitoring of the Convention .....	409–414	81
X.	Report writing process .....	415–417	82
XI.	Statements by children .....		83

## Acronyms

BEAM	Basic Education Assistance Module
CPC	Child Protection Committees
ECD	Early Childhood Development
EPI	Expanded Programme of Immunisation
GDP	Gross Domestic Product
HART	Highly Active Anti-Retroviral Therapy
ICRC	International Committee of the Red Cross
ILO	International Labour Organization
IOM	International Organization for Migration
MDG	Millennium Development Goal
MNH	Maternal and Neonatal Health
NAP	National Action Plan for Orphans and Vulnerable Children
NGO	Non-governmental organisation
OVC	Orphans and Vulnerable Children
PMTCT	Prevention of Mother to Child Transmission
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFPA	United Nations Fund for Population Activities
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNIFEM	United Nations Development Fund for Women
WHO	World Health Organization
ZDHS	Zimbabwe Demographic Health Survey
ZIMDAT	Zimbabwe Statistics Database
ZUNDAF	Zimbabwe United Nations Development Assistance Framework

## Foreword

1. In 1990, the Zimbabwe Government ratified the United Nations Convention on the Rights of the Child and in September of that year, the country became a full State Party to the Convention. As a State Party, my Government committed itself to respect and observe the rights set forth in the Convention.
2. Article 44 of the United Nations Convention on the Rights of the Child requires State Parties to present periodic reports on the implementation of the Convention on the Rights of the Child to the United Nations Expert Committee on the Rights of the Child. My Government hereby presents the periodic report on the state of the Zimbabwean Child for the period 1997–2008.
3. The Report endeavors to address the Expert Committees concluding remarks on Zimbabwe's initial Report (CRC/C/3/Add.35) which was deliberated upon on 22nd and 23rd May 1996 and concluded on the 7th of June 1996. This Report also presents additional developments in the nation's quest to safeguard and uphold the rights of the Zimbabwean Child.
4. We strive to make and preserve a Zimbabwe that is fit for not only the present generation, but for those still to come. There are challenges that beset Zimbabwe in her efforts to improve the standard of living of her children. The major challenges include the illegal sanctions imposed on my country by the West. These compound such natural disasters as droughts and floods, and the result is the diversion of scarce resources for developmental programmes to food aid. Notwithstanding these hardships, we remain determined and committed to upholding the rights of every child without any discrimination.
5. Construction of schools, health facilities and other infrastructure continues in order to make them accessible to more children. Public campaigns and education are also going on to enhance and fortify the protection of ALL CHILDREN from abuse, and facilitate their participation in issues that have a bearing on their lives.
6. Poverty eradication measures are in place in order to overcome under-development, and the HIV/AIDS scourge which remain enemies of the Zimbabwean child.
7. On behalf of the Government and people of the Republic of Zimbabwe, I am pleased to submit the State Party Report on the United Nations Convention on the Rights of the Child for consideration by the United Nations Committee on the Rights of the Child.



R.G. Mugabe

President of the Republic of Zimbabwe

28th October 2011

## Executive summary

8. The United Nations Committee on the Rights of the Child considered Zimbabwe's initial State party report on the Rights of the Child at its 314th meeting held in Geneva on 7 June 1996. The Committee made observations and recommendations which this report seeks to address, in addition to indicating other developments that have taken place since then, in accordance with the reporting guidelines. This report combines two reporting periods, from 1997 to 2002 and 2003 to 2008.

9. Prior to the compilation of this report, the Government held preparatory meetings with civil society organisations and United Nations agencies to discuss the Committee's concluding remarks. The concluding remarks were also placed before Cabinet and Parliament. The report will show that concerns raised by the Committee have been remedied whilst recommendations made by the Committee have been implemented.

10. The Government of Zimbabwe reaffirms its commitment to the welfare and rights of the child as one of the priorities on the national development agenda. This is evidenced by the ratification of major international human rights instruments which relate to the welfare and rights of children, including:

- The Convention on the Elimination of All Forms of Discrimination against Women;
- The International Labour Organization Convention No. 138 on the Minimum Age for Admission to Employment (1973);
- The African Charter on the Rights and Welfare of the Child (1999); and
- The ILO Convention No. 182 on the Worst Forms of Child Labour (1999).

11. The Government has therefore ratified the key international instruments to ensure the fulfilment of its international obligations, as well as enhancing the enjoyment of the rights of the child. The process of ratifying the Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict has since begun. The principles of the ratified regional and international instruments are enshrined in a number of laws that govern the rights and welfare of the child such as the Children's Act [Chapter 5:06], the Domestic Violence Act [Chapter 5:16] and the Criminal Law (Codification and Reform) Act [Chapter 9:23]. The Hague Convention on the Civil Aspects of International Child Abduction has been incorporated into the national abduction laws.

12. The Domestic Violence Act [Chapter 5:16] and the Criminal Law (Codification and Reform) Act [Chapter 9:23] are milestones in the protection of potential victims of violence as they criminalise harmful traditional practices such as forced virginity testing, child marriages and female genital mutilation. The Children's Act provides for the overall welfare of children and for the establishment of the Child Welfare Council. The existing Labour Law has been amended to regulate the employment of children and to protect them from abuse and exploitation at the workplace. Maternity benefits for expectant mothers have been included in the Act which provides for three months paid leave, and a daily extra hour off work for nursing up to a period of 6 months.

13. Constitutional provisions with respect to non-discrimination have been extended to eliminate discrimination on the basis of sex, marital status and sex.

14. A comprehensive review of the national legal framework was conducted to assess Zimbabwe's compliance with the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women.

15. One area of concern revealed by the above referenced Review is that the definitions of a child still remain inconsistent in the legal system. A process to review and align the relevant pieces of legislation has begun. The discriminatory aspects of the marriage laws which were allowing girls only to be married at the age of 16 are being reviewed by the Ministry of Justice, Legal and Parliamentary Affairs.

16. Measures have been taken to ensure effective service delivery. This is evident from the birth registration system, which has been improved. The Government is making a concerted effort to ensure that orphans and other vulnerable children are registered. The remote areas are serviced with mobile registration units, which operate for a period of at least three months in every province. The 2006 Zimbabwe Demographic Health Survey (ZDHS) found that 74 per cent of Zimbabwean children had their births registered.

17. Other achievements made include the decline in the rate of HIV infection from a peak of 34 per cent in 2000 to 15.6 per cent 2007, indicating a drop of approximately 2.6 percentage points per year. The Zimbabwe National HIV and AIDS Estimates Report of 2007 attributes the decline to the improvement in the adoption of protective and other behavioural measures.

18. Primary Health Care and Welfare in Zimbabwe has a very supportive environment in the form of policies, programmes and legislation to protect children. These include the expanded programmes of immunisation, child supplementary feeding, malaria prevention, water and sanitation, village health worker and primary care nurse, free treatment of children under the age of five in public institutions. Other developments have been the introduction of baby friendly hospitals, awareness through the celebration of the breastfeeding week and the integrated management of child illnesses. The challenges are HIV and AIDS, poverty, hunger and a health care system which has been weakened by a number of factors such as brain drain, shortage of essential drugs and equipment and lack of resources. Despite all these adverse factors, the infant mortality rate declined from 65 deaths per 1,000 live births to 60 from 1999 to 2005/6 (Demographic and Health Survey of 2005/6).

19. The implementation of these development programmes has been streamlined by the Government to encourage non-governmental organisations to partner the Government with respect to recognised national goals. A number of positive programmes have been implemented including the National Programme of Action for Children, National Action Plan for OVCs and the Inter-Ministerial Task Force on Human Trafficking.

20. Due to the orphanhood problem and the harsh economic climate, Zimbabwe has recognised the need to delve into the situation of child trafficking and migration. Research is ongoing, though past findings have indicated that a large number of children are irregularly crossing borders to either look for jobs or join their families. In response, the Government, in conjunction with Save the Children Norway-Zimbabwe, the International Organization for Migration (IOM) and the United Nations Children's Fund (UNICEF), is operating reception centres at the main border towns to assist these children. Another social issue is that of children living on the streets. The Government is, in partnership with other organizations, such as Streets Ahead and Scripture Union, making efforts to remove the children from the street and to rehabilitate them. The children are accorded educational and training opportunities and efforts are being made to reunite them with their families.

21. Special Protection Measures have also focused on refugee children. The Government, in cooperation with United Nations agencies, such as the United Nations High Commissioner for Refugees (UNHCR) and UNICEF, and non-governmental organisations aim to integrate refugee children into mainstream schools. In addition, there is a programme to reunite families. The response by the Government to the needs of sexually abused children has been multifold and multilevel. As reported in the initial report, special courts

have been set up for children to be able to give evidence in a child friendly room, away from the main courtroom, and out of the sight of the perpetrator. Child friendly facilities also exist at police stations and hospitals and efforts are being made to cover all the provinces.

22. The Government has policies, programmes and legislation to support the Education/Vocational Training and Guidance sector. The challenges faced in this area include inadequate finance and material resources, school dropouts, low teacher morale and brain drain and poverty. In response to the Committee's concerns on the lack of trained teachers in the rural and remote areas, the Government made it a priority to deploy trained teachers to alleviate this challenge. The number of trained teachers increased by approximately 15 per cent from 1997–2004 in primary schools and similar trends occurred in secondary schools. The Government has contributed to the reduction in the rate of school dropouts by providing the Basic Education Assistance Module (BEAM) fund for orphans and vulnerable children to attend school. Other players provide support in the form of material resources. The fund has assisted over half a million children from the period 2002–2007. The Government has also ended its monopoly over tertiary education and this has resulted in the opening of a number of new tertiary institutions.

23. Despite major socio-economic challenges, Zimbabwe still has reasonable social services and infrastructure. There has also been an increase in both the number of primary and secondary schools and in the national financing and resource planning, thereby achieving a literacy rate of 90 per cent, as reflected in the Labour Force Survey compiled by the Central Statistical Office.

24. The challenges which Zimbabwe faces with respect to the protection of children emanate from poverty, which has led to vulnerability and food insecurity in both rural and urban areas. Poverty has reduced access to and the quality of education, health, water and sanitation and social capacity for child protection. Moreover, the mid-decade MDG report indicated that poverty is increasing at a higher rate in urban areas than in rural areas due to the deteriorating macro-economic environment characterized by hyperinflation, negative real GDP growth, shrinking formal job opportunities, and shortages of food and non-food commodities.

25. A major challenge for the Government has been strategies for dealing with the HIV and AIDS pandemic. Although many structures and processes are in place, such as the National Aids Council, which administers the National Aids Trust Fund, and the National HIV and AIDS Strategic Framework (2000–2004), which was launched to operationalise the National Aids Policy, resources to combat the various aspects of the programme are limited and the challenges are numerous. Despite this, and the overwhelming challenge of orphans and vulnerable children (OVC), a drop in the prevalence rate has been noted.

26. The Government of Zimbabwe has and continues to make great strides towards the full implementation of the Convention on the Rights of the Child. The efforts and achievements are expressed in the body of this report in two parts. Part one sets out the responses to the Committee's recommendations and its concluding observations on the initial report, whilst part two discusses developments that have occurred since the submission of the initial report. The separation of the two parts is designed to ensure clarity in the flow of information, taking into account the lapse of time between the consideration of the initial report and submission of this combined report.

27. Zimbabwe, therefore, seeks the indulgence of the Committee to depict responses separately from the developments.



## Part One

### Committee's concluding observations on the initial report and the response by Zimbabwe

28. The responses to the recommendations of the Committee on the Rights of the Child in its concluding observations on the initial report submitted on 23rd May 1996 (CRC/C/15/Add.55) are set out below. The numbering follows the paragraph numbers of the Committee's recommendations.

<i>Recommendations by the Committee</i>	<i>Responses by the State</i>
22. Comprehensive review of national legal framework; Effective implementation of the principle of non-discrimination and revising constitutional provisions to support non-discrimination such as on the basis of gender, race, birth or marital status.	<p>The Ministry of Justice, Legal and Parliamentary Affairs commissioned a review of the National Legal Framework in 2002 with support from UNICEF. The review was focusing on the compliance of national laws with the provisions of the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women. The review of the Convention on the Rights of the Child indicated that national laws were generally in compliance with the principles of the Convention but two major recommendations were made:</p> <ul style="list-style-type: none"> <li>• The need to adopt a comprehensive structure for the implementation, further research and monitoring of the implementation of children's human rights principles under domestic law and human rights instruments;</li> <li>• The need to carry out capacity development initiatives for all implementers of children's rights.</li> </ul> <p>The Declaration of Rights under the Constitution of Zimbabwe applies to all the people living in Zimbabwe, including children. The principle of non-discrimination has since been extended under Constitutional Amendment 17 to prohibit discrimination on the grounds of sex, disability and marital status.<sup>1</sup> The addition of "sex, marital status and physical disability" to this section was made as recently as 2005. The addition of marital status to the Declaration of Rights has positive implications for children who are born in and out of wedlock and who may suffer discrimination due to the marital status of their parents.</p> <p>Of particular interest to children, is that Parliament amended the Children's Protection and Adoption Act [Chapter 5:06] in 2002 to make provision for the protection, welfare and supervision of children and juveniles. The Amendment, which changed the title of the Act to the Children's Act, also provides for the</p>

<sup>1</sup> Constitution of Zimbabwe Amendment (No. 17) Act, 2005.

<i>Recommendations by the Committee</i>	<i>Responses by the State</i>
<p>23. Effective and permanent system of monitoring and implementing the Convention with close cooperation between government and non-governmental organisations.</p>	<p>establishment of the Child Welfare Council and children's courts.</p> <p>Parliament passed Constitutional Amendment No. 18, in September 2007, which among other things established the Zimbabwe Human Rights Commission. The Commission's functions will include monitoring of the implementation of human rights instruments. Other functions are:</p> <ul style="list-style-type: none"> <li>(a) To promote awareness of and respect for human rights and freedoms at all levels of society;</li> <li>(b) To promote the development of human rights and freedoms;</li> <li>(c) To monitor and assess the observance of human rights in Zimbabwe;</li> <li>(d) To recommend to Parliament effective measures to promote human rights and freedoms;</li> <li>(e) To investigate the conduct of any authority or person, where it is alleged that any of the rights in the Declaration of Rights has been violated by that authority or person; and</li> <li>(f) To assist the Government to prepare any report required to be submitted to any regional or international body constituted or appointed for the purpose of receiving such reports under any human rights convention, treaty or agreement to which Zimbabwe is party.</li> </ul> <p>With the support of the UNDP country office, the Government has engaged civil society organisations to work together towards the establishment of the Zimbabwe National Human Rights Commission.</p>
<p>24. Method of data collection be improved and disaggregated.</p>	<p>Parliament passed the Census and Statistics Act [Chapter 10:05] in 2007, which seeks to establish a National Statistical System with the Central Statistical Office as its coordinator and supervisor. The functions of the National Statistical System shall be to increase the effectiveness and efficiency in the provision of official statistics, as well as to improve compliance with regional and international standards, products and services. Government Ministries and other public institutions shall continue to produce data relating to their responsibilities (administrative data), in conformity with standards set by the Central Statistical Office. This is designed to enhance the comparability of data of a similar nature and to minimize unnecessary overlapping or duplication with the collection or publication of statistics by the various institutions. The Government has also put in place a National Strategy for the Development of Statistics for the National Statistical System. All data from household surveys conducted by the Central Statistical Office is disaggregated by</p>

*Recommendations by the Committee**Responses by the State*

25. Mandate of Ombudsman should be improved to ensure violations of children's rights are investigated including those committed by defence forces, correctional officials and law enforcement.

sex and age, thus enabling gender and child analysis.

The amendment to the Ombudsman Act by Act No. 4 of 1997, extended investigations to the Defence Forces, the Police Force and the Prison Service. The constitutional weakness of confining investigations to publicly run or controlled institutions, however, still remains.

The Human Rights mandate of the Ombudsman will be transferred to the Human Rights Commission referred to above. This has resulted in the functions of the office being confined to the function of the Public Protector, hence changing the name to that effect. As stated in Constitutional Amendment No. 18 the Zimbabwe Human Rights Commission shall have power:

(a) To take over and continue any investigation that has been instituted by the Public Protector:

(b) To refer to the Public Protector for any matter in respect of which it determines that the dominant question in issue involves a matter pertinent to the functions of the Public Protector.

26. Measures should be adopted to prevent and eliminate prevailing societal attitudes and cultural and religious practices. Convention should be widely publicised, included in school curricula and used to train professionals working with children.

The Government has adopted legislative measures to criminalise cultural harmful practices. Please refer to paragraphs 37 to 40 for a full discussion on the Domestic Violence Act [Chapter 5:16]

Through the Zero Tolerance Campaign against Child Abuse, Government Ministries, civil society organizations and UNICEF have raised awareness on the prevention of child sexual exploitation and abuse among community based organizations and traditional leaders.

The Zimbabwe Republic Police (ZRP) has a special programme for children as part of the ZRP junior corps to groom them to be law-abiding citizens. Children are also trained to recognise risk factors of drug abuse, sexual abuse and other issues.

Junior Council was established to increase child participation in decision-making.

*Recommendations by the Committee**Responses by the State*

27. Birth registration of all children should be ensured especially in rural areas and commercial farms.

In addition to existing birth registration structures, maternity hospitals and clinics now offer birth confirmation records in order to speed up the birth registration process. Birth confirmation records are used to obtain the birth certificates from the Registrar General's Office.

Further, the Government annually conducts mobile registration exercises for at least three months in each province to ensure that children located in rural, farming and other remote areas are registered. The mobile registration units are located on farms, clinics or at any centrally situated points. Parents who, in the past have been unable to register their children due to long distances between the District Registrar's Office and their homes have benefited from these programmes. The Registrar General's Office is working to increase the frequency of mobile birth registration to the 10 Provinces with the lowest rate of registration. This is a periodic exercise to register newly born children. Registration of orphaned children has also improved by the relaxation of the previously rigorous administrative requirements such as the production of the death certificate of the deceased parent. What is now required is simply a testimony by elderly relatives of the child or traditional leaders as to the identity of the child's deceased parents. Government has also gone further and removed the requirement of paying for the issuance of birth certificates for children aged between 0–6 years. The computerisation of the Registrar General's Office has enhanced the issuance of birth certificates by incorporating the national identity number at the time of entry. Upon attaining 16 years of age, a child is then issued with a national identity card.

The 2002 Census revealed that 64.4 per cent of children below the age of 18 years were registered, while the ZDHS (2005–2006) found that 74 per cent of children had their births registered. The survey found that urban residents are more likely to register the births of their children (83 per cent) than rural residents (71 per cent).<sup>2</sup>

The Registrar General has since been mandated to set up mobile voter registration units that will also cater for birth registration.

28. Urges state party to pay particular attention to implementation of Article 4 of Convention and facilitate the realization of economic, social and

Although the responsibility of providing for families remains with parents, those who are unable to provide for their children may apply to the Government for assistance, through the Department of Social Services, under the Social Welfare

<sup>2</sup> Zimbabwe Demographic and Health Survey 2005-2006. Central Statistical Office, Zimbabwe. (2007).

*Recommendations by the Committee**Responses by the State*

cultural rights of children with particular attention to the most disadvantaged children.

Assistance Act [Chapter 17:06]. Assistance is given in the form of payment of school fees through the Basic Education Assistance Module (BEAM) and Public Assistance Allowances, as well as access to Government medical facilities. The Government, through the Ministry of Public Service, Labour and Social Welfare, is working with United Nations agencies, children, and other relevant stakeholders in programmes that target needy children under the NAP<sup>3</sup> for OVC,<sup>4</sup> which was established in 2004. The programme, adopted by Cabinet, seeks to develop a national institutional capacity to identify all orphans and vulnerable children in Zimbabwe and provide them with basic services. The programme uses the community-based approach and has established functional child protection committees at village, district, provincial and national level. The programme contributes to the achievement of the Millennium Development Goals in regard to OVC. In the Zimbabwe National Aids Strategic Plan, the NAP for OVC is the programme that feeds into the Mitigation and Support Strategic Area.

Other examples of the national commitment to children include:

- Budget line on children, especially those in difficult circumstances (2001) by the Ministry of Health and Child Welfare;
- Training of Government Officials to develop their capacities to implement children's rights;
- Development of an enhanced social protection programme (2001);
- Supplementary feeding programme under the Social Services Cabinet Committee;
- Removal of fees for children under 5 years in the public health institutions.

However, in the implementation of this national commitment, the State has faced many challenges which include hyperinflation, the loss of trained and skilled staff to other countries, the massive increase in the needs of children due to generalised poverty, and the impact of HIV and AIDS.

29. State party should adopt the best interest of the child as a primary consideration in all actions concerning children.

The best interest of the child principle is applied in matters of family law such as; maintenance, custody, guardianship and access, among others. Specific examples of such are, the Children's Act [Chapter

<sup>3</sup> NAP, National Action Plan for Orphans and other vulnerable children, a comprehensive strategy whose mandate is to coordinate and provide for safety nets for OVC.

<sup>4</sup> OVC, Orphans and other vulnerable children

*Recommendations by the Committee**Responses by the State*

5:05] and the Customary Law and Local Courts Act [Chapter 7:05]. In terms of section 5 of the latter Act, the interests of minor children shall be of paramount interest in cases relating to their custody, irrespective of the law or principle applied. The Matrimonial Causes Act [Chapter 5:13] requires the Court, under section 10, to ensure that there is evidence of proper provision for the custody and maintenance of children before any decree of divorce, judicial separation or nullity of marriage is granted. Section 5 of the Guardianship of Minors Act [Chapter 5:08] obliges the court to grant sole custody rights to one parent only if it is in the interest of the minor child. Some examples of case law illustrating the implementation of this legislation include:

- *Moyo vs. Sithole*,<sup>5</sup> in this case the High Court in Harare ruled that neither the consideration of bride price nor type of marriage was relevant in the determination of the custody of minor children. Instead, the best interest of the child was of paramount consideration;
- *Kuperman v Posen*,<sup>6</sup> the High Court in Harare ruled that it was not in the best interest of the children to have them sent to their mother in Israel pending the outcome of the divorce proceedings, as this would have resulted in the children being relocated twice should custody have been granted to the father;
- *Cruth v Manuel*,<sup>7</sup> this case involved a dispute over access rights between unmarried parents who had separated after living together for four years. The court rejected an appeal by the father for access rights requiring him to prove that the child's mother was not exercising her rights properly. However, in a minority judgment, it was held that there was no need for the father to show such compelling reasons. All he needed to do was prove, on a balance of probabilities that the child's interests would be best served if he were granted access right. Although this was not the decisive judgment, it shows commitment to the application of the best interest of the child.

As regards institutionalization of children deprived of their family environment, the State has, in relation to orphaned or abandoned children, encouraged extended families to take up such children, while

<sup>5</sup> *Moyo vs. Sithole*, 1985 ZLR HC-B-35.

<sup>6</sup> *Kuperman v Posen* 2001 ZLR HH-54-2001.

<sup>7</sup> *Cruth v Manuel* SC 73/98.

*Recommendations by the Committee**Responses by the State*

30. Appropriate measures should be adopted by the State party with a view to ensuring respect for the views of the child in family, school and social life and to promoting the exercise of the rights of the child in a manner consistent with his or her evolving capacities.

providing financial and material support to such families in collaboration with Non Governmental Organizations, as this is considered to be in the best interest of the concerned children.

Legislative protection has been provided for child victims of abduction under the Child Abduction Act [Chapter 5:05]. This Act annexes the Hague Convention on the Civil Aspects of International Child Abduction.

In order to address the Committee's concerns raised under Item 16 of the Concluding Remarks, Zimbabwe has put in place legal and administrative structures to enable children to express themselves. Without derogation from Articles 5 and 12 of the Convention, parents carry their responsibility of giving appropriate direction and guidance in the family, at school and in social life, to enable their children to enjoy fully, the rights enshrined in the Convention on the Rights of the Child. Parents allow their children to mature and express their own views on issues, which pertain to them. The judicial system, and in particular the juvenile courts generally permit presiding officers to consult the children by interviewing them in matters affecting their welfare in keeping with the best interest principle, which is contained in Articles 5 and 12 of the Convention. To this end, Zimbabwe does have in place a judicial structure in which a child's voice finds expression.

However, children's views may not be decisive if authorities consider them to be contrary to their best interest.

The State has encouraged and allowed media based programmes in which children air their views. These include, Kidznet Productions, Citizen Child, Fact Files, Child Alert, Youth.com, Getting Ahead and Sunday Bridge. Furthermore, Zimbabwe joins other countries in commemorating the International Day of Children's Broadcasting, annually.

Zimbabwe has a Child Parliament in which children propagate their views on child rights and other issues that affect them. In essence, the Child Parliament was established to commemorate the day of the African Child in memory of the children of SOWETO killed as a result of conflict during the Apartheid Regime in South Africa. The Parliament meets only once a year.

The NAP for OVC highlights the importance of child participation. Child Protection Committees are functioning and District AIDS Councils have child representatives. There is also a network of children that work on HIV and AIDS.

<i>Recommendations by the Committee</i>	<i>Responses by the State</i>
<p>31.State Party should adopt appropriate legislative measures to forbid the use of any form of corporal punishment within the family and in any school.</p>	<p>Zimbabwean children have always been sponsored to participate in Regional (Southern African Development Community) and International fora like the World Summits on Children of the General Assembly of the United Nations.</p> <p>Government in collaboration with UNICEF and Childline, a Non-Governmental Organisation, offers toll free postal services and telephone lines to allow children to express themselves and report cases of abuse.</p> <p>Non-Governmental Organisations, with the support of United Nations Agencies, produce magazines and newspapers as a way of allowing children to raise their concerns in keeping with Article 17 of the Convention.</p> <p>In 1999 Government took steps to do away with corporal punishment through a draft Constitution. This was however rejected by the populace who felt that children need some form of chastisement as they grow up.</p> <p>In order to address the Committee’s concern under item 18 of the concluding remarks, Government intends to carry out further research into this area in order to establish whether Zimbabweans would want to leave the position as it is or outlaw corporal punishment altogether.</p> <p>In schools, a Ministry of Education Policy Circular<sup>8</sup> provides that only the Head of a school can administer corporal punishment on boys.</p> <p>The Government has taken steps to prohibit violence against children under the Domestic Violence Act [Chapter 5:16] in terms of which children are recognized as potential victims of domestic violence. Section 2 of the Act includes as a potential complainant; “a child of the respondent, whether born in or out of wedlock, and includes an adopted child and a step-child.” Thus, a child may make a complaint directly to the authorities through a number of individuals outlined in the Act including a police officer, a social welfare officer, an employer of the complainant, a person representing a church or religious organisation or a private voluntary organisation concerned with the welfare of victims of domestic violence, a relative, neighbour or fellow employee of the complainant or a counselor.<sup>9</sup></p>

<sup>8</sup> Policy Circular P35 of 1999.

<sup>9</sup> Domestic Violence Act 5:16. (2006) § 2.



*Recommendations by the Committee**Responses by the State*

32. Similar measures should be taken to prohibit child labour below a minimum age

The Central Statistical Office conducted a Labour Force Survey<sup>10</sup> in 2004. According to this Survey, 37 per cent of children were reported to be in economic labour reflecting the economic hardships being faced by households.

The results of the survey prompted the Government to introduce the following programmes:

- Protection of the working children from occupational health and safety hazards;
- Rehabilitation and reintegration of children who had been working;
- Strengthening of labour inspections; and
- In-depth study on the worst forms of child labour e.g. bondage and forced labour.

Parliament amended section 11 of the Labour Act [Chapter 28:01] in 2005 to place the age of employment of young persons at 15 years. The Act permits the enrolment of children into apprenticeship programmes from the age of 13 years with the assistance of guardians. Violations of these provisions attract monetary penalties or a custodial sentence of up to two years.

In accordance with the Labour Relations (Employment of Children and Young Persons) Regulations, Statutory Instrument No. 72 of 1997<sup>11</sup> which provides that no person shall employ a child under the age of fifteen (15). Where a child is thirteen years old (13) or more, they may perform light work if such work is an integral part of a course of education or training for which the school or training institution is primarily responsible. The Labour Relations Regulations further provide that the work should not prejudice the child's education, health and safety, social or mental development. In addition, the child shall not be employed to work during the school term, in terms of the Education Act [Chapter 25:04], unless the Minister has approved the contract of employment concerned.

According to the ILO, a person who spends at least one hour a week on any activity for pay, profit and/or family gain (including unpaid family work), is considered as being economically active. The Ministry of Public Service, Labour and Social Welfare however, has introduced three major variations to this definition to regulate child labour, namely a cut-off of three hours or more per day in relation to economic activities, a cut-off of five hours

<sup>10</sup> Zimbabwe Child Labour Report, Central Statistical Office, March 2006.

<sup>11</sup> As amended by Statutory Instrument 155 of 1999.

33. With respect to juvenile justice, the Committee recommends that the State Party raise the minimum age of criminal responsibility and incorporate in the legislation a clear prohibition of capital punishment, life imprisonment without possibility of release and indeterminate sentencing

or more per day for children in housekeeping activities as constituting child labour.

In Zimbabwe the Movement of Working Children and Youth represents child workers and lobbies for the protection of their rights by employers. They have worked closely with Government advocating for the right to light and limited work, safety clothing specific to the field of work and for the fixture of a minimum wage for child workers.

The Government in partnership with UNICEF and ILO is working towards the operationalisation of the ILO Convention No. 182 to eliminate the Worst Forms of Child Labour.

#### **Capital Punishment**

In terms of section 338 (c) of the Criminal Procedure and Evidence Act [Chapter 9:07], the imposition of capital punishment on children who are in conflict with the law is prohibited.

#### **Minimum Age of Criminal Responsibility**

Under the Criminal Law (Codification and Reform) Act [Chapter 9:23], a child below the age of seven is, in law, incapable of committing a criminal offence. However, a child above seven but below 14 years of age is in law deemed capable of committing a criminal offence. Authority to prosecute such juvenile offenders should be sought from the Attorney General.

The minimum age of criminal responsibility has not been raised. The matter requires research and public consultations. In terms of section 338c of the Criminal Procedure and Evidence Act [Chapter 9:07] court proceedings are held in camera to protect the identity of the child. The child's name is not published, hence protecting the child's interests, dignity and even privacy.

The Government is working on the Pre-trial Diversion Policy for purposes of introducing concrete measures to divert juvenile offender from the ordinary criminal justice delivery system in preference to rehabilitative measures. The Policy formulation exercise is still in its infancy.

The Criminal Procedure and Evidence Act [Chapter 9:07] under section 135 gives magistrates the flexibility to release juvenile offenders (18 and below) without bail, unless they have been accused of treason, murder or rape. The magistrate may instead of admitting the child offender to bail release her or him without bail in the care and custody of the parent or guardian with a warning to appear before a court or magistrate at a given time and date.

*Recommendations by the Committee**Responses by the State*

34. The Committee further recommends that the report submitted by the State Party, relevant summary records and Concluding Observations be disseminated as widely as possible to the public and be brought to the attention of Parliament.

Alternatively the child may be placed in a place of safety as defined in section 2 of the Children's Act [Chapter 5:06] pending appearance before a court or magistrate or until otherwise dealt with according to law.

**Life Imprisonment without the possibility of Release or Indeterminate Sentence**

Life imprisonment is in practice, not imposed on a child below the age of 18 years, although there is no prohibitive legislation to that effect.

It is the intention of Government to ensure the dissemination of the State Party Report and relevant documentation through partnership with Inter-Governmental and Non-Governmental Organisations.

## Part Two

### State party report

#### I. General measures of implementation (arts. 4, 42 and 44, para. 6)

##### A. Legislative, administrative and other measures (art. 4)

29. The Government has, through the enactment of and amendments to a number of laws, set a platform for the implementation of the rights of the child. A summary of the laws is outlined below.

##### 1. The Constitution of Zimbabwe<sup>12</sup>

30. The Constitution of Zimbabwe contains a Declaration of Rights in Part III. Although no specific mention is made of children in the Declaration of Rights, it applies to children, in the same way that it applies to adults.

<sup>12</sup> Constitution of Zimbabwe, (Revised Edition 1996) § 3.

## 2. Children's Act [Chapter 5:06]<sup>13</sup>

31. The Children's Act provides for the general welfare of children. The Act attempts to protect children from physical and mental violence, neglect, injury, abuse and maltreatment. It also provides for the establishment of the Child Welfare Council, a multi-sectoral unit composed of all ministries whose mandates include children's issues and representatives of civil society organisations. Among the key functions of the Child Welfare Council is the administration of a Child Welfare Fund that has since been established.

## 3. Labour Act [Chapter 28:01]

32. The Labour Act [Chapter 28:01] regulates the employment of children between the ages of 13 and 16, for purposes of protecting them from exploitation, as well as exposure to harmful substances.<sup>14</sup> It further makes provision for maternity benefits for expectant mothers.

33. In compliance with ILO Convention 183 on Maternity Protection, the Labour Act was amended in 2005 to increase the duration of paid maternity leave from 90 days to 98 days.

34. For the benefit of a breastfeeding child, section 18 (8) of the Act permits mothers to take one hour every day off their work schedule to breast-feed.

### Challenges

35. Some challenges have since arisen in the interpretation of section 18(11), which specifies the period within which a mother is entitled to the feeding hours. The subsection reads as follows:

“A female employee shall be entitled to the benefits under subsection (8) for the period during which she actually nurses her child or six months, whichever is lesser”

36. In terms of subsection (2) of section 18, expectant mothers should commence maternity leave 21 days prior to the expected date of delivery, leaving them with about 77 days of leave with the child. The question that has arisen is whether the six months period is from the birth of the child or the time the mother returns to work. Although strict interpretation of the Act would entail the latter position, as the mother's time on leave is not subject to regulation, some employers have terminated the feeding hour allowance when the child attains six months of age.

## 4. Domestic Violence Act [Chapter 5:16]<sup>15</sup>

37. As stated in part one, the Domestic Violence Act provides for the protection of children from violence by identifying them as potential victims of domestic violence.

38. Section 3 of the Act prohibits violence perpetrated on a person by virtue of their age, as well as that derived from cultural practices such as forced virginity testing, forced marriages and child marriages, and pledging of girls to relatives of a deceased person for

<sup>13</sup> Children's Act Chapter 5:06 Acts 22/1971, 39/1973 (ss. 43 and 52), 43/1973 (s. 4), 18/1974, 44/1974 (s. 4), 26/1979, 15/1981 (s. 66), 29/1981 (s. 59), 15/1982 (s. 3), 11/1986 (s. 29), 24/1987 (s. 8), 2/1989 (s. 7), 20/1994(s. 3), 14/1995; 9/1997 (s. 10), 22/2001 (s. 4), 23/2001,14/2002 (s. 4); R.G.N. 327/1977; S.I. 689/1979.

<sup>14</sup> Child Labour, See Part A, 32 for update on child labour.

<sup>15</sup> Domestic Violence Act Chapter 5:16 Act 14/2006.

purposes of appeasing such deceased person's spirits. This occurs where the girl's family is said to have caused the death. Prohibited cultural practices include female genital mutilation (FGM). Although not a common practice in Zimbabwe, the lawmakers felt genital mutilation may come in forms not widely recognised and therefore requires outright prohibition. Consideration was also made of the possibility of FGM being practiced by foreigners, including those that are married to Zimbabwean nationals.

39. An act of domestic violence committed in the presence of a minor is also considered as domestic violence against such minor. This is designed to protect children against mental injury that may occur as a result of witnessing domestic violence.

40. Emotional abuse is not considered a criminal offence under the Act, as it could be practically difficult to prove. However, it is recognised as an act of domestic violence, which could attract such civil remedies as counselling and the issuing of protection orders by the court. Ultimately, criminal penalties may be imposed where the protection order is breached.

## **B. Economic, social and cultural measures (art. 4)**

41. Economic, social, and cultural rights are entrenched in various pieces of legislation such as the Social Welfare Assistance Act [Chapter 17:06], the Customary Law and Local Courts Act [Chapter 7:05], the Children's Act [Chapter 5:06] and the Maintenance Act [Chapter 5:09] among others. There are also policies in place such as the NAP for OVC and the National AIDS Policy. Measures under this thematic area of human rights are mainly developed in the area of health and education.

### **1. HIV and AIDS mitigation programme**

42. The National HIV and AIDS Estimates Working Group estimated HIV and AIDS prevalence rate to be 15.6 per cent for adults aged between 15 to 49 years in 2007.<sup>16</sup> The most recent figures show a declining HIV epidemic in Zimbabwe from 20,1 per cent in 2005 for the same age group. The Ministry of Health and Child Welfare has reported that the decline started around 1997. A review of available data in Zimbabwe determining the decline in HIV prevalence resulted from a combination of:

- (a) an increase in adult mortality in the early 1990s;
- (b) a decline in HIV incidence which began in the mid 1990s.<sup>17</sup>

43. There is an improvement in the adoption of protective behavioural measures, in particular, decreasing numbers of sexual partners and increasing use of condoms.<sup>18</sup>

44. According to the National HIV and AIDS Estimates (2007), the estimated number of persons (age 15–49) needing Highly Active Anti-Retroviral Therapy (HART) peaked at 510,356 in 2004. In 2007, an estimated 15,7 per cent of people in need of therapy received first line therapy. An estimated 102,566 people needed to initiate first line therapy in 2007. Approximately, 86,000 people received HART in 2007 through the Ministry of Health and Child Welfare HART rollout programme, which started in 2004. Children needing ART peaked in 2001 at 29,945. The lowest level was 22,212 children needing HART in 2006 and that increased to 24,194 children in 2007. By the end of 2007, approximately 10,000 children received HART. The largest portion of resources to address the HIV and AIDS

<sup>16</sup> HIV and Aids Estimates Report (2007) Ministry of Health and Child Welfare.

<sup>17</sup> Ibid.

<sup>18</sup> Ibid.

challenge comes from the 3 per cent AIDS levy on the taxable income. This is a domestic initiative.<sup>19</sup>

45. While the decline in HIV prevalence is encouraging, Zimbabwe will continue to invest in interventions targeting behavioural change, improve prevention strategies and enhance care and treatment services for those infected and affected by HIV in order to decrease the number of people becoming infected with HIV and dying from the infection.

46. The Government has adopted, as one of its priority areas, Millennium Development Goal 6 on the combating of HIV/AIDS, malaria and other diseases. This is designed to enhance measures already operating such as the establishment of the National AIDS Council. Established under the National AIDS Council of Zimbabwe Act [Chapter 15:14] the Council's functions, among others, are:

- To ensure the development of strategies and policies to combat HIV and AIDS and to control and ameliorate the effects of the HIV and AIDS epidemic;
- To promote and co-ordinate research into HIV and AIDS and to ensure the effective dissemination, as well as the application of the results of such research.

47. NAC is multi-disciplinary in composition and its membership includes Government officials and interest groups from civil society, as well as trade unions, media, traditional healers and the Law Society of Zimbabwe.

## **2. The National Action Plan for Orphans and Vulnerable Children**

48. In the same multisectoral spirit of cooperation between Government and Non-Governmental Organisations, the National Action Plan for Orphans and Vulnerable Children (NAP) was established to facilitate interventions for orphans and vulnerable children. The goal of the NAP is based on the four underpinning principles of the Convention on the Rights of the Child of non-discrimination, best interest of the child, respect for the views of the child, and survival and development. The concept of child participation is also incorporated in this strategy. A central fund for children has been established under this strategy where all funding for children's activities have been pooled into one basket. Monitoring of OVC interventions at the different community levels is done by the Child Protection Committees as mandated by the NAP. The child protection committees are composed of Government Departments represented in the area, NGOs, Faith Based Organizations, Care Based Organizations, traditional leadership (custodians of OVC in rural communities), traditional healers and child representatives.

49. Sub-committees are also in place at village, ward, district and provincial levels. At all levels children's views are discussed, debated and reviewed. The structure allows the flow of information from the grassroots levels right up to Cabinet level and vice versa. There is a secretariat placed within the Department of Social Services, in the Ministry of Public Service, Labour and Social Welfare, to coordinate and ensure the flow of information. Other key players are the Ministry of Education, Sport and Culture, Ministry of Justice, Legal and Parliamentary Affairs, Ministry of Women's Affairs Gender and Community Development, Donors, United Nations agencies and children. Currently, the Secretariat funding exceeds US\$85 million and its financing modality is one pooled funding which UNICEF manages, with multiple donors contributing. The Programme is being implemented in partnership with 131 implementing agencies with a focus on 7

<sup>19</sup> Meeting the Health Related MDGs through Accelerated Child Survival and Development (ACSD) Scaled Up Action Plans for Zimbabwe 2007–2015.

priority areas. As of March 2008, it had reached 184,296 children<sup>20</sup> (see Appendix for list of implementing Agencies).

### Challenges

50. Zimbabwe is facing challenges in implementing economic, social and cultural rights. A major causal factor has been that poverty has increased, with food insecurity increasing in both rural and urban areas. Poverty is increasing at a higher rate in urban areas than in the rural areas due to the greater impact of the deteriorating macro-economic environment characterised by hyperinflation, negative real GDP growth, shrinking job opportunities, and rampant shortages of basic food and non food commodities.<sup>21</sup> A contributing factor has been the imposition of illegal sanctions since 2001. It is the imposition of these sanctions that has limited Zimbabwe's access to international assistance and cooperation, hence curtailing further her ability to adequately provide for her people. These political challenges have limited national and international dialogue on policy reforms.

51. With respect to the HIV Mitigation Programme, a number of challenges have been collated:<sup>22</sup>

- Knowledge levels of the HIV and AIDS pandemic are still low despite the Behaviour Change Strategy produced by The National Aids Council, which has recorded some positive responses;
- Access to essential drugs and ARVs is limited;
- Resources to combat the pandemic are inadequate. This includes inadequate foreign currency to purchase drugs and the prohibitive transport costs for the ordinary person to visit health care facilities;
- Coordination of the programme has been hampered by challenges within the National AIDS Council including high staff turnover and shortages of finance and material resources;
- A major challenge is adequate care and support for OVC, especially those who are living with HIV and AIDS;
- Women and girls are the most vulnerable group with a higher infection rate. However they are less likely to seek treatment due to prohibitive transport costs, cultural beliefs and gender roles.

52. To address some of the challenges outlined above, the Government and non-state actors have implemented limited systems of cash transfers.<sup>23</sup> To alleviate orphan hood, poverty and the vulnerability of children, ways of scaling out the cash transfer system are being explored, to increase access to basic services. An operations research agenda has been commissioned under the NAP for an Orphans and Vulnerable Children Programme of Support one of whose priority research areas is assessment of effectiveness and strategies for using cash transfers. Feasibility<sup>24</sup> and pilot studies<sup>25</sup> have been accomplished on cash transfers and conditional cash transfers, which have recommended appropriate conditions for cash transfers in Zimbabwe as well as potential cash transfer implementation modalities.

<sup>20</sup> NAP for OVC Monitoring Database.

<sup>21</sup> Zimbabwe Millennium Development Goals. Mid-Term review 2000-2007. Government of Zimbabwe & United Nations.

<sup>22</sup> Ibid.

<sup>23</sup> Country Social Protection Engagement Strategy 2008, UNICEF Zimbabwe.

<sup>24</sup> Feasibility Study on conditional cash transfers by Development Data (2008).

<sup>25</sup> Conditional cash transfer Programme Design by W. Masikati, Catholic Relief Services (CRS) (2008).

The pilot study identified service areas to support through cash transfers and those to use as conditions in conditional cash transfers to improve OVC support outcomes.<sup>26</sup>

### **C. Publication of the principles and provisions of the Convention (art. 42)**

53. Institutions such as the Child Parliament and the Junior Council have been established by the Government to publicise and raise awareness on children's rights and related issues. The National Arts Council is also complementing the efforts of these institutions. Civil society is complementing Government in some of the programmes meant to ensure publication and dissemination of information on the Convention on the Rights of the Child to children through capacity development programmes.

54. The education curricula have been amended to include children's rights and related issues. Children's media programmes such as Child Alert, Citizen Child and Kidznet provide the platform for children to participate and debate on issues affecting them.

55. Through the Zero Tolerance Campaign against child abuse, the Government, civil society organizations and UNICEF have raised awareness on the prevention of child sexual exploitation and abuse among community based organisations and traditional leaders.

56. The Youth Round Table has been working with groups of young people, within and outside school to raise their awareness on child rights and child prevention of abuse through child protection committees.

### **D. Wide dissemination of the report to the public (art. 44, para. 6)**

57. In addition to the dissemination of the Report to all stakeholders during the compilation process, the Government intends to further distribute the final Report after it has been submitted to the Committee.

### **E. Status of the Convention in domestic law**

58. In terms of section 111B of the Constitution, international treaties and conventions can only apply once ratified and incorporated in national law. Provisions of the Convention have, however been included in the Constitution and other pieces of legislation. Although the Constitution<sup>27</sup> does not, as stated under Paragraph 30 of this Report, make specific reference to the child, the Declaration of Rights under Part 3 equally applies to children.

59. The Constitution of Zimbabwe contains three provisions of relevance to children:

- Section 23(2), contains protection for individuals on specified grounds, which include "sex, gender, marital status, physical disability, race, tribe, place of origin, political opinions, colour or creed."<sup>28</sup> The grounds of "sex, marital status or physical disability" were included in the Constitution under Amendment 17 in 2005. Children who may experience discrimination under any of the grounds may seek relief through their legal guardians;

<sup>26</sup> The design of a pilot project for cash transfers to support OVC in Zimbabwe: Scientific Evaluation Protocol by S. Gregson, Bio-Medical Research and Training Institute.

<sup>27</sup> Constitution of Zimbabwe (Revised Edition 1996) § 3.

<sup>28</sup> Constitution of Zimbabwe Amendment No. 17, 2005.



- The Constitution allows freedom of expression, including the freedom to receive and impart ideas and information without interference.<sup>29</sup> However, this is subject to “parental discipline”. This is designed to ensure that children develop with the proper guidance of their parents;
- Freedom from arbitrary searches is also subject to parental discipline.<sup>30</sup>

60. As stated above the principles of the Convention on the Rights of the Child have been incorporated under various pieces of legislation. It has long since been accepted, in Zimbabwe, that once a convention or treaty has been ratified, the courts should, in appropriate cases apply its provisions. This approach is succinctly summarised by the late Chief Justice Dumbutshena in the case of *A Juvenile vs. The State*<sup>31</sup> where he stated that “the courts are free to import into their interpretations any regional, or international human rights instruments. This way, human rights norms will be integrated into domestic law.” There may be a two fold interpretation to section 11B of the Constitution, which may not be as obvious as first perceived. The popular interpretation has always been that, until such time as an Act of Parliament incorporates the conventions and treaties into national law; they hold little influence at national level. Another interpretation is that while this provision may mean that a Zimbabwean citizen cannot invoke the treaties to claim that her/his rights have been breached, the Government is still bound as a state party to these treaties to fulfill the duties to its citizens by virtue of ratifying the instruments.

61. The fact that the Government periodically reports to treaty monitoring bodies such as CEDAW and the Children’s Rights Committee is proof of the Government’s acknowledgement of its commitment to abide by the terms of the treaties that have been ratified.

62. One piece of legislation that has wholly incorporated an international instrument is the Child Abduction Act, which annexes the Hague Convention on the Civil Aspects of International Child Abduction [Chapter 5:05].

## **F. Implementation and monitoring mechanisms on the rights of children**

### **1. Implementation strategies**

63. Laws dealing with children’s rights are assigned to different Ministries. The Ministry of Health and Child Welfare has the broad mandate to ensure implementation of the Convention on the Rights of the Child; the Ministry of Public Service, Labour and Social Welfare is concerned with the protection, adoption and support of children including orphans and vulnerable children; the Ministry of Education, Sport and Culture ensures that the educational and developmental concerns of children are met; the Ministry of Home Affairs is mandated to ensure the smooth registration of births, deaths and the citizenship of children while the Ministry of Justice, Legal and Parliamentary Affairs administers the Constitution which contains the Declaration of Rights. It has the overall coordinating role of State Party reporting. The Ministry is also responsible for administrative requirements for the law enactment machinery, the legislature and the justice delivery system, including juvenile justice.

<sup>29</sup> Ibid. § 20(1).

<sup>30</sup> Ibid. § 17(1-3).

<sup>31</sup> 1989 (2) ZLR 61 at p. 72.

## **2. Coordination of the activities of central, regional and local authorities**

64. There are a number of mechanisms that Government has put in place to coordinate activities and ensure effective use of resources for the maximum benefit of children. These include:

- The introduction of the Results Based Management System, which ensures that the Government mechanisms are results oriented;
- Resource tracking through the Ministry of Finance, which monitors the effective utilisation of Government funds;
- The development of national plans of action, such as for OVC and setting up of a programme of support with a pooled funding mechanism. This has been found to be expedient in ensuring the effective utilisation of donor funds. The Government in liaison with civil society organisation develops the plans of action. This strategy ensures that all intervention objectives are recognised nationally such as;
- The “no buy in, no partnership” principle, which the Government uses to encourage partners, such as NGOs to buy into nationally developed plans for their own programming. This ensures that there is unity of purpose in the implementation of national priorities, such as the MDGs;
- The encouragement of civil society organisations to work at district levels: This enhances the work of line Ministries in charge of children’s affairs;
- A Donor Harmonisation Group on OVC to ensure a coordinated approach to programming;
- The Joint Programming System between the Government and United Nations Country Team: This modality is functioning within the context of the Zimbabwe United Nations Development Assistance Framework (ZUNDAF). Programmes executed under the ZUNDAF, include the expanded support programme for HIV and AIDS and the livelihood programme in the education sector.

## **3. Relations between the Government and non-governmental organisations**

65. To ensure effective implementation of the provisions of the Convention on the Rights of the Child and the monitoring of such implementation, the Government works in partnership with NGOs that are registered in terms of the Private Voluntary Organisations Act [Chapter 17:05]. One aspect that is considered when registering NGOs is whether or not their proposed programmes and objectives will contribute to the national goals. Partnership programmes include;

- The National Programme of Action for Children coordinated by the Ministry of Health and Child Welfare;
- The Millennium Development Goals Taskforce, a broad partnership, which brings together Government, United Nations agencies, Civil Society, Private Sector, Academic and Research Institutions, as well as the Youth. The Taskforce spearheads MDG monitoring as well as localisation to ensure that planning and decision-making is aligned with the MDGs;
- The National Action Plan for OVC, coordinated by the Ministry of Public Service, Labour and Social Welfare;
- National Partnership Forums on HIV and AIDS, established since 2002 to ensure better coordination among Government, civil society and development partners. These include the National Partnership co-chaired by National AIDS Council and the United Nations; the Prevention of Mother to Child Transmission (PMTCT)

Partnership, the Care and Treatment Partnership (which includes a sub-committee on paediatric AIDS), the Behaviour Change Technical Support Group, and the Counselling and Testing Partnership;

- The Expanded Support Programme, which brings together Government, the United Nations, donors and civil society in efforts to accelerate HIV and AIDS response;
- The Inter-ministerial Task Force on Trafficking which works with the International Organisation on Migration, UNICEF and NGOs to support national information campaigns and to develop the capacity of counter trafficking experts. The goal of the Task Force is to work towards the introduction of criminal penalties for trafficking offences;
- The Zero Tolerance Campaign against Child Abuse, a close cooperation between Government and civil society whose aim is to reach communities through sensitisation of key stakeholders, at provincial and district levels.

### **Partnership challenges**

66. The effective maintenance of partnership initiatives in the health sector faces challenges such as staff attrition and brain drain due to low remuneration and poor working conditions. Availability of medicines and other medical supplies have been severely compromised due to the hyperinflationary environment and lack of foreign currency. Programmes have been further compromised by challenges in the transport sector.

67. Furthermore, several challenges are encountered in relation to HIV and AIDS including resource constraints for paediatric drugs such as ARVs, high staff turnover, the provision of equitable service in both rural and urban areas, such as voluntary counselling and testing, and comprehensive PMTCT facilities. High poverty levels combined with food insecurity are undermining interventions, in particular mitigatory interventions for people living with HIV. Another area in need of addressing is the capacity development for the health sector on how to deal with paediatric HIV and AIDS. In addition to this, the maintenance of sustainable alternative feeding programmes for orphans and babies aged 0–6 months born to HIV positive mothers needs to be enhanced.<sup>32</sup>

68. Orphaned children are more vulnerable to abuse upon the death of a parent, as no adequate alternative care systems are in place, thereby opening up protection gaps.

## **4. Mechanisms for the systematic collection of data on children and their fundamental rights at all levels**

69. Zimbabwe has a wealth of data on children collected through periodical household surveys and from administrative data produced by Government Ministries and departments. There is a focal person for gender and child statistics in the Central Statistical Office whose mandate is to bring into the fore, gender and children related issues during questionnaire designing, drafting and tabulation of plans as well as data analysis. From 1997 to date the following surveys have been carried out:

- Inter-Censal Demographic Survey 1997 and 2007;
- Labour force Surveys (including child labour) 1999 and 2004;
- Population Census 2002;
- Demographic and Health Surveys 1999 and 2005–2006.

<sup>32</sup> World Fit for Children Mid-Decade Progress Report Zimbabwe 2002-2006, Government of Zimbabwe and UNICEF.

70. The Ministry of Public Service Labour and Social Welfare conduct the Poverty Assessment Study surveys. To increase data availability access to the Central Statistical Office, in collaboration with 13 line Ministries and with technical support from the United Nations, has established the Zimbabwe Statistics Database (ZIMDAT). ZIMDAT is a customised version of DevInfo database, which contains prioritised national indicators to monitor progress towards the Millennium Development Goals.

## **5. Monitoring mechanisms**

71. The implementation of the provisions of the Convention is monitored through a number of frameworks and reporting mechanisms. Examples of periodic reports submitted include World Fit for Children, Mid-Decade Progress Reports and Demographic Surveys.

72. The Ministry of Health and Child Welfare submits the Mid Decade Review Report to the United Nations every five years. The compilation process is conducted under the programme of action for children. Civil society organizations also participate in the preparation of the Mid Decade Reports.

73. The implementation of the provisions of the Convention is monitored through administrative data produced by various Ministries and Government Departments.

## **G. The principle of the best interest of the child in budgetary allocations**

74. The Ministry of Finance and other social services sector ministries work closely with the National Association of Non-Governmental Organisations in the Child Friendly Budget Initiatives, which seek to prioritize children's issues and the utilization of budgetary allocations. Areas of priority include, disease control, expansion of immunisation, nutritional programmes, and fieldwork to raise awareness on HIV and AIDS, and other sexually transmitted diseases. Under the education sector, Child Friendly National Budgeting Initiatives target the reduction of pupil to book ratio. Increases in grants for early childhood education, the strengthening of social safety nets include food subsidies and security. In 2007, over 2,000 children spearheaded by the Zimbabwe Child and Youth Budget Network, and supported by Save the Children Norway-Zimbabwe, were actively involved in drafting a Ten Point Plan under the auspices of the Child Friendly National Budget initiative. The Plan urges Government to address issues of child poverty in the National Budgets. On the other hand, the Ministry of Public Service, Labour and Social Welfare administers budget allocations for the BEAM, which provides educational funding for orphans and vulnerable children. The challenges faced are:

- An increase in the number of Orphans and Vulnerable Children. A comparison of the results from the 1994 and 2005–2006 of the ZDHS for this group indicates that there has been a dramatic increase in orphan hood. The proportion of children orphaned, i.e., with one or both parents having died, more than doubled between the two surveys from 9 per cent to 22 per cent.<sup>33</sup> The percentage of children under the age of 18 who were orphaned or vulnerable increased markedly with age, from 11 per cent of children under age 2 years to 42 per cent of children aged between 15 and 17 years.<sup>34</sup> Due to the increasing number of orphans, the BEAM fund has proved inadequate;

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<sup>33</sup> Zimbabwe Demographic and Health Survey 2005–2006. Central Statistical Office, Zimbabwe (2007).

<sup>34</sup> Ibid.

- Inadequate funding: Not all education costs are covered by BEAM and there is a need to address indirect costs of education; uniforms, stationery, learning materials and food;
- Duplication of services due to limited coordination among stakeholders;<sup>35</sup>
- The decrease of beneficiaries on a yearly basis due to school fees increases, which become higher than anticipated with each successive year.

## **H. Measures taken or foreseen to publicise the provisions of the Convention (art. 42)**

### **1. Extent of the education of public officials and professionals on the Convention**

75. Civil Society supports capacity development initiatives and awareness campaigns for public officials and professionals on children's rights. Examples include teachers, law enforcement officials, immigration officers, the judiciary, defence forces, health workers, social workers and medical doctors. Current programmes include Police capacity development programmes, the Southern Africa Regional Police Chiefs' Coordinating Committee, State Party Reporting, Rights Approach to Programming for Social Services, and Policing on Violence against Women and children.

76. A major capacity development initiative was conducted prior to the setting up of the Victim Friendly Courts. The initiative included all ministries whose mandate is to protect children including Justice, Education, Health and Social Welfare. The objective was to prepare all professionals with respect to the rights of children under the Convention as regards the psychological and behavioural dynamics of physical and sexual violence. Research had shown that children did not respond well to the original legal and medical system, as the professionals did not have sufficient training in child development and the dynamics of violence. Thus, children would break down or remain silent when giving evidence. All the professionals were trained prior to the setting up of Victim Friendly Courts so that they would be of maximum benefit to children. In addition, an intensive public education campaign was conducted on sexual violence and the Victim Friendly Courts.

77. In support of these initiatives, Justice for Children Trust a Non-Governmental Organisation, runs the Child Law Forum Project, which involves the training of children on the laws of child protection. These children become change agents in their schools. The project started in 23 schools in the capital city and has now been extended to 100 schools in two other areas. The project involves sensitization of school authorities to enable them to create structures for child protection. At school level, there are children trained as peer educators, who form child law clubs where children meet and share information on the laws of child protection. The peer educators identify cases of abuse and refer them to Justice for Children Trust and to the police.

78. To this end, peer coordinators who are usually teachers are also trained in child protection issues. The trained teachers become the channel through which cases of violations of children rights are reported. Besides the Child Law Forum Project, the Trust has a dedicated programme for the training of social welfare officers, law enforcement

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<sup>35</sup> Potential Candidates for Case Studies: Zimbabwe. United Nations & Partners Alliance on OVC 29–31 August, 2006. A discussion of BEAM beneficiaries supported by the Ministry of Public Service, Labour and Social Welfare through the Ministry of Education, Sport and Culture is in section VII below.

agents and civil society on the laws of child protection. The Trust also provides free legal services for the benefit of children.

**2. Extent of incorporation of the Convention in professional training curricula and codes of conduct or regulations**

79. Since the ratification of the Convention, steady progress has been made to incorporate its principles into the training of professionals who will be required to provide support to children. Social workers have always incorporated the principles of the Convention as an integral part of their training. However, the incorporation into the curricula of doctors, lawyers and teachers came with the procedural and legal changes in the law, with regard to sexual violence against children. It was recognised that these professionals are an integral part of the system to whom children would report abuse and their skills and knowledge with respect to children's rights required enhancement. Thus began a systemic inclusion of a number of child related training aspects into the curricula of these professionals. Apart from children's rights, the training includes child development to enable professionals to better understand the responses of children to trauma and abuse.

**3. Promotion of understanding of the Convention by the mass media, information and publicity agencies**

80. The media has a programme that focuses on children's rights and the Zimbabwe Union of Journalists has regulations on the reporting of child related cases in the press. Kidznet has a dedicated segment, which focuses on children's rights in line with the Convention. A summary of programmes for children conducted through the media is discussed under Paragraph 189-191.

**4. Involvement of and support by non-governmental organisations in awareness and advocacy campaigns on the Convention**

81. The Committee may refer to part one, paragraph 26, for a discussion on advocacy programmes conducted by NGOs.

## **II. Definition of the child (art. 1)**

### **A. General definition**

82. As reported under paragraph 1 of the Initial Report, the legal age of majority under the Zimbabwean legal system is 18 years.<sup>36</sup>

### **B. Definition and description of "child" under different themes**

83. The Children's Act [Chapter 5:06], defines a child as a person under the age of 16, including an infant. An infant is defined as a person under the age of 7 years, while a minor is defined as a person under the age of 18 years.

84. The definition of a child may be varied to meet the requirements and purposes of different pieces of legislation, as explained hereunder;

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<sup>36</sup> Section 15 of the General Laws Amendment Act [Chapter 8:07] reduced the legal age of majority from 21 to 18.

## 1. Legal and medical counselling without parental consent

85. A person may seek legal or medical counselling without parental consent at the minimum age of 18 years.

## 2. Medical treatment or surgery without parental consent

86. Persons under 18 years cannot undergo surgery without parental consent. In terms of section 76 of the Children's Act [Chapter 5:06], where parental consent cannot be obtained, an application may be made to the Magistrate's Court for authority to proceed with the surgery.

87. In terms of the Marriage Act [Chapter 5:11] boys under the age of 18 years and girls under the age of 16 are not capable of contracting a valid marriage. While the age of marriage for boys is in conformity with the legal age of majority, that of girls is not. The marriage law therefore allows the marriage of girls who have not achieved the legal age of majority. Married adolescents have access to reproductive health services as they are considered adults for the purposes of access to services and information on contraception and prevention of sexually transmitted infections. Consequently they are no longer subject to parental/guardian consent requirements for medical treatment.<sup>37</sup>

88. The Marriage Act [Chapter 5:11] provides for an exception to the minimum age of marriage, whereby the Minister of Justice, Legal and Parliamentary Affairs has the power to approve an application for the exception if he or she considers such a marriage desirable. The common interpretation of this exception is to permit a marriage to be solemnized when the adolescent girl is pregnant. Thus, being pregnant allows an adolescent girl to contract a valid marriage and grant her a limited majority status in spite of her age. The benefits to the adolescent are that she would be able to access reproductive health services and information without parental permission.<sup>38</sup>

### Challenges

- The age of 18, which permits access to health care is also in contradiction with the minimum age of marriage for girls;
- The Customary Marriages Act [Chapter 5:07], does not specify the minimum age of marriage. Thus, exposing children to early marriages, yet they remain incapable of consenting to certain medical procedures.

89. Despite being a milestone in eradicating discrimination, Constitutional Amendment No. 17, which prohibits discrimination on the basis of marital status, may now entitle unmarried adolescents to access reproductive health services that were only available to married adolescents in the past. This will cause complications, as the adolescent will be encouraged to engage in sexual activity before the age of majority.

- Children below the age of 18 cannot on their own initiate, and without parental consent access legal and medical counsel. With regards to legal counselling, this age restriction militates against the best interest of the child principle in that children below that age may need legal advice particularly where a child is subject to abuse from the caregiver. Due to the increase of child headed households, as a result of HIV and AIDS and poverty, it may be necessary that children be made aware of their rights and have access to such rights through the justice delivery system. These

<sup>37</sup> State of Denial: Adolescent Reproductive Rights in Zimbabwe. The Centre for Reproductive Law and Policy & the Child and Law Foundation (2002).

<sup>38</sup> Ibid.

laws also have major implications for children who are pregnant as a result of forced sexual intercourse;

- The Termination of Pregnancy Act [Chapter 15:10] permits abortion within limited circumstances. These include situations where continuation of the pregnancy so endangers the life of the mother; or where there is a serious risk that the child to be born will suffer from a physical or mental handicap or where the foetus has been conceived as a result of unlawful intercourse. Thus, for children and women who have been victims of sexual violence, the law does provide a remedy with respect to abortion. The Act outlines the procedure for obtaining a legal abortion. In order for a medical practitioner to carry out the abortion, permission is required from the superintendent of the hospital. Where the pregnancy results from “unlawful intercourse” an inquiry is to be conducted by a magistrate upon which a certificate may be issued.

90. Procedurally, this process is rather lengthy and may result in enormous delays. In some instances the pregnancy may be too advanced for permission for termination to be granted.<sup>39</sup> An additional factor is that, in terms of the Act, no person, doctor, nurse or otherwise is “obliged to participate or assist in the termination of a pregnancy.” Thus, doctors and other medical staff have been known to refuse to conduct or assist during a termination of pregnancy due to their religious and or moral affiliations.

### 3. Compulsory education

91. In terms of section 5 of the Education Act [Chapter 25:04], primary education is compulsory for every child of school going age. As the general age of admission to primary school is 6 years, it is expected that a child should complete primary school education at the age of twelve.

92. The universal primary education policy adopted by Zimbabwe soon after independence resulted in a massive expansion of the education system which saw registered primary schools increasing by 88 per cent. This increase in the number of schools was accompanied by a phenomenal increase of 198 per cent enrolment. However, from 2002 there has been a steady decline in the enrolment by 1, 4 per cent probably due to the result of the continuous economic decline.

93. According to the Education Management Information System (2004) and Early Childhood Education Care, the proportion of grade ones who have pre-school background has increased from 55 per cent in 2002 to 57 per cent in 2004.<sup>40</sup> The Nziramasanga Commission Report recommended the implementation of the Early Childhood Development Programme.<sup>41</sup>

### 4. Admission to employment or work, including hazardous work, part-time and full-time work

94. Age limitations have been discussed under part one, paragraph 32, and paragraphs 32–24 above.

<sup>39</sup> Tsanga, A., Nkiwane, V., Khan, N. & Nyanungo, K. (2004) Children and Women’s Rights in Zimbabwe: Theory and practice. A critical Analysis in relation to the women and children’s conventions.

<sup>40</sup> Education Management Information System, 2004, Secretary’s Circular No. 14 of 2004 and Statutory Instrument 106 of 2005.

<sup>41</sup> This has been discussed fully under section VII.



## 5. Minimum age of marriage

95. As stated under Paragraph 87 above, the minimum age of marriage is 18 for boys and 16 for girls. The Government has, however, since approved amendments to the different marriage laws to align the minimum age of marriage with the legal age of majority, which is 18 years. The proposed Bill is still in draft form and is awaiting presentation to Parliament.

## 6. Sexual consent

96. Part III of the Criminal Law (Codification and Reform) Act [Chapter 9:23], which provides for protection against sexual crimes and crimes against morality, defines a young person as a girl or boy below the age of sixteen years. In terms of section 70 of the Act, it is an offence to have sexual intercourse with a young person, as such a person is considered incapable of consenting thereto.

### Children's views on the minimum age of marriage vis-à-vis the age of sexual consent

97. During the drafting stage of this report, the children representative indicated that the children support the proposed elevation of the minimum age of marriage for girls from the age of 16 to 18 years. They believe the elevation would give the girl child an opportunity to concentrate and complete her education at the same time as the boy child. They have, however, recommended that the minimum age of marriage and that of sexual consent be harmonized with the legal age of majority. The general views of the children on the realization of their rights are provided in the annex to this Report.

98. Statistics show that 4.9 per cent and 5.2 per cent girls and boys respectively have had their first sexual encounter by age 15. By age 18, the figures have increased to 36.1 per cent and 31.7 per cent respectively.<sup>42</sup> However, the same survey reports that the HIV prevalence is 6.2 per cent among girls (15–19) and 3.1 among boys (15–19). Among girls who reported that their first sexual encounter occurred at age 15 or younger, 24 per cent reported that sexual intercourse was forced against their will.<sup>43</sup>

99. These statistics highlight the particular needs of the girl child with respect to the prevalence of HIV and forced sexual experiences.

## 7. Voluntary enlistment and conscription into the armed forces

100. The age of capability to engage in National Service remains at 18 as reported in the Initial Report.

## 8. Participation in hostilities

101. The minimum age of conscription remains 18 years, as was initially reported.

## 9. Minimum age of criminal responsibility

102. This is discussed in part one, paragraph 33.

## 10. Deprivation of liberty, including arrest, detention, imprisonment, asylum seeking, and placement in welfare and health institutions

103. A child or young person may not, in terms of section 84 of the Children's Act [Chapter: 5:06], be detained in a prison, police cell or any other form of lock-up facility,

<sup>42</sup> Zimbabwe Demographic and Health Survey 2005-2006. Central Statistics Office, Zimbabwe (2007).

<sup>43</sup> Ibid.

unless it is necessary and no suitable remand home is conveniently available. In deciding suitability, the nature of the offence and the safety of the child are taken into consideration.

104. Placement of children in places of safety is governed by the Children's Act [Chapter: 5:06]. Such a decision should, in terms of section 14, be made at the request of a police officer, health officer, education officer or probation officer who is of the opinion that the child in question is in need of care. Preferred places would ordinarily be the family or surrounding community, unless it is not in the best interest of the child.

105. Places of safety other than a family, established for the reception of children, such as children's homes and institutions require registration under Part V of the Act. The Director of Social Services maintains a list of such institutions.

106. Refugees are, by virtue of section 12 of the Refugees Act [Chapter 4:03], subject to all laws in force in Zimbabwe. While the Act does not make specific reference to children in this regard, all laws applicable to children in Zimbabwe apply to refugee children.

#### **11. Capital punishment and life imprisonment**

107. The Constitution provides that children under the age of 18 years should not be subjected to capital punishment. Part one, paragraph 33, discusses this point further.

#### **12. Giving testimony in court, civil and criminal**

108. The Zimbabwean legal system permits children to give evidence in Court. In terms of section 244 of the Criminal Procedure and Evidence Act [Chapter 9:07], no person is excluded from giving evidence, unless the Act so specifies. Children have not been specified in this regard. Instead, the Act, under section 319B permits courts to take necessary measures to protect vulnerable witnesses if the court is of the opinion that the witness may either suffer substantial stress or feel intimidated. Circumstances that may lead to such a conclusion, as outlined under section 319C, include the age of the witness.

109. In practice, children who feel intimidated or are under the age of 12 can testify under Victim Friendly Court facilities. This process came into place under the Criminal Procedure and Evidence Act [Chapter 9:07], which was amended by Act No. 8 of 1997, to provide that a vulnerable witness can give evidence under facilities that include the closed circuit television system.

110. Children who are victims of sexual violence may also have access to anatomically correct dolls to assist them in giving evidence. This is regardless of whether the child is a mere witness or a victim of crime. In-camera proceedings for all children under the age of 18 apply in both civil and criminal proceedings.

#### **13. Lodging complaints and seeking redress before courts or other relevant authorities without parental consent**

111. There is no minimum age required in this regard. Children are represented by adults or legal practitioners.

##### **Challenges**

112. In terms of the law, children can lodge complaints and seek redress before the courts without parental consent, yet they cannot seek legal advice without parental consent if they are below the age of 16.

**14. Giving consent to change of identity, including change of name, modification of family relations, adoption and guardianship**

113. In terms of section 71 of the Children's Act [Chapter 5:06], adopted children under the age of 18 years cannot change their name without parental consent. The same applies to adopted children who may wish to change their original name on the adoption register with the permission of his/her adoptive parents. However, the original name is required to remain on the register together with the new name. Section 18 of the Births and Deaths Registration Act [Chapter 5:02] reiterates this process by requiring parental consent for change of name.

114. It is considered common practice for courts in Zimbabwe to elicit the opinion of capable children with respect to adoption and guardianship in chambers depending on the needs of the case.

**15. Having access to information concerning the biological family**

115. An adopted child may access information concerning the biological family from the age of 18 years. This is subject to administrative procedures and counselling services.

116. The adoptee is required to write to the Director of Social Services indicating his/her intention to know her/his biological parents. The application letter must state whether adoptive parents are agreeable to the revelation. If they are not in agreement, then the letter will not be processed. Copies of the short birth certificate given at adoption and the Adoption Order are required to be attached to the application.

117. The Social Welfare Officer then writes to the Minister responsible to dispense with the requirement, which forbids revelation of information pertaining to an adoption. In this way adoption details may be released. The Social Welfare Officer must make recourse to the report given at the time of giving up the child for adoption whereby the officer will find out if the natural parents confided that they do not want their identities revealed to their child. The Minister will make a decision guided by the proclamation made by the biological parents at adoption. If the Minister consents to the revelation of identity, the District Social Welfare Officer may then order the Registrar General to issue a long birth certificate which shows the birth details of the applicant. If the adoption is of the de facto type, the District Social Welfare Officer will order the Registrar to issue a long birth certificate in respect of the applicant.

**16. Legal capacity to inherit and conduct property transactions**

118. The Deceased Persons Family Maintenance Act [Chapter 6:03] makes provision, under section 3, for minor children of a deceased person to apply to the Master of the High Court or a provincial magistrate, for an award from the net estate of the deceased. The application is placed before an appropriate court for consideration. The Court may make an interim order where there is need for immediate financial assistance.

119. However, a person below the age of 18 must, by virtue of the legal age of majority be represented by a major.

**17. Creating or joining associations**

120. There is no age restriction. Children can create and join lawful associations as long as they have access to such associations.

**18. Choosing a religion or attending religious school teaching**

121. Section 19 of the Constitution of Zimbabwe provides for the enjoyment of the freedom of religion by children subject to parental discipline. Minor children cannot be

compelled to receive religious instructions in any place of education unless their parents or guardians give consent to that effect.

**19. Consumption of alcohol and other controlled substances**

122. The Liquor Act [Chapter 14:12], under section 79, prohibits the sale or supply of liquor to persons under the age of 18 years. It is an offence for any person to allow a child to consume liquor on licensed premises, or even the child's mere presence in a bar during operating hours.

123. Children are also protected from exposure to the use of medicines in contravention of the law. Section 67 of the Medicines and Allied Substances Control Act [Chapter 15:03] imposes monetary penalties and a custodial sentence of up to five years on those who violate the law in this regard.

**20. Relation of minimum age of employment to age of compulsory schooling and its effect on the child's right to education vis-à-vis international instruments**

124. The minimum age of employment and the age range within which education is considered compulsory has been discussed under sections I A and paragraphs 91-93, respectively.

### **III. General principles**

**A. The principle of non-discrimination (art. 2)**

**1. Constitutional and legislative provisions vis-à-vis article 2**

**Review of the national legal framework**

125. See part one, paragraph 22, for a full discussion.

126. Detailed information of the legal framework will be discussed under specific Articles in the main body of this Report.

**2. Measures of implementation regarding non-nationals, refugees and asylum seekers**

127. In terms of section 12 of the Refugees Act [Chapter 4:03], persons recognised as refugees in Zimbabwe are entitled to the rights contained in the Convention relating to the status of refugees. Recognized refugees are entitled to bring in members of their families (section 11).

128. The Ministry of Public Service, Labour and Social Welfare reports that there are a total of 2,184 (1,234 male and 950 female) refugee children in Zimbabwe. Of these 1,087 children are attending school.

**3. Preventing and combating discrimination in law and in practice, on all grounds**

129. Please refer to the discussion on the principle of non-discrimination, under Paragraph 22 of the recommendations in part one.

**4. Measures taken to eliminate discrimination against the girl child vis-à-vis the Fourth World Conference on Women**

130. The Ministry of Women Affairs, Gender and Community Development is spearheading the girl child empowerment programme. Under this programme are the following empowerment activities:

131. Gender Awareness Campaigns in Schools: The Ministry has a mandate to promote gender equality and equity in all spheres of life as stipulated in the National Gender Policy. This includes the girl child. In order to uplift the girl child, the Ministry has embarked on a gender sensitization exercise in primary and secondary schools in all provinces. This has been done through the formation of gender clubs that spearhead the programme.

132. Gender Based Violence Clubs in Schools: It is the responsibility of the Ministry to see to it that the girl child is protected from all forms of violence. The main focus of these clubs is to reduce abuse of child especially the girl child, who is constantly a victim of abuse at school and at the home.

133. It also provides an opportunity to increase awareness among children on the provisions of the recently enacted Domestic Violence Act (2007).

134. Promoting the Girl Child's Education: Zimbabwe has achieved gender parity in primary education. However, the challenge is to prevent the widening gap in enrolments and completion rate for girls at secondary and tertiary levels. The Ministry is planning to start a programme to promote funding for education for girls who deserve but cannot afford to continue with their education, especially at secondary and tertiary level.

**5. Measures taken to collect disaggregated data**

135. This process has begun as discussed under paragraph 24 of part one.

**6. Elimination of attitudes to and prejudice against children contributing to social or ethnic tension, racism and xenophobia**

136. Since independence the Government of Zimbabwe has promoted national reconciliation and tolerance between the races and ethnic groups. Children learn in their mother language in early years and the Ministry of Education, Sport and Culture has recognised and accepted the use of the different languages and dialects in Zimbabwe. This has significantly reduced the prevalence of socio and ethnic tension, xenophobia and racism.

**7. Elimination of discrimination or punishment on the basis of status, activities, expressed opinions or beliefs of child's parents, legal guardians or family members**

137. There is no legal or policy provision in place that allows the treatment of children on the basis of the status, beliefs or opinions of their parents.

**Challenges faced in implementing article 2, plans to overcome challenges and evaluation of progress in implementation**

138. See discussions on the principle of non-discrimination and the best interest of the child under both parts one and two. In particular, see part one, paragraph 29.

**B. The principle of the best interests of the child (art. 3)**

139. The application of the principle of the best interest of the child is discussed as a response to the Committee's concerns. The cornerstone of child law in Zimbabwe is the

best interest of the child principle. This approach is evident in matters dealing with guardianship, custody, access, maintenance and paternity of children. Before a decree of divorce or judicial separation is granted, the court first requires evidence to determine if proper provision has been made for the custody and maintenance of the children.<sup>44</sup>

140. The duty to maintain children lies with both parents regardless of which law applies to them and whether or not they are married. The courts have been consistent in enforcing the reciprocal duty of parents to support their children according to their means. In the case of children born out of wedlock the burden of proof rests on the father of the child, and pending any paternity testing, he is obliged to maintain the child. In upholding the principle, the courts help to reduce child poverty as children get to be maintained within their parent means. The courts also protect the children of deceased parents or guardian by ensuring that they benefit from their parents estate.<sup>45</sup>

141. The best interest of the child is reflected in section 5 of the Customary Law and Local Courts Act [Chapter 7:05]. The Act provides that, "... in cases relating to the custody of minor children, the interests of the children shall be of paramount consideration."

142. Case law on the rights or welfare of the child has mainly been premised on the principle of the best interest of the child. See part one, paragraph 29, for a discussion of relevant case law.

143. Measures taken to ensure children's protection and care necessary for their well being (art. 3, para. 2)

144. This remains as discussed in the previous comments.

**Measures taken to ensure conformity with set standards in areas of safety, health, number and suitability of staff and competent supervision in public and private institutions, services and facilities (art. 3, para. 3)**

145. Public Health Officials and Probation Officers appointed in terms of section 46 of the Children's Act [Chapter 5:06] monitor compliance levels through inspection. In order to ensure the continuous availability of social workers, the Children's Act was amended in 2001 to allow the appointment of probation officers from the private sector. In terms of subsection (1)(a) of the Act:

"The Minister may, where a public officer is not available, engage social workers who are registered in terms of the Social Workers Act [Chapter 27:21], and are not public officers, to perform the functions of a probation officer in terms of this Act on such terms and conditions as the case may be agreed."

146. This was designed to reduce the effect of the high staff turnover in the public sector on the operations of children's institutions. To ensure compliance with set standards in the running of children's institutions, Parliament enacted the Social Workers Act [Chapter 27:21] in 2001. The Act establishes the Council of Social Workers, which is empowered to register social workers and monitor the practice of social work.

**Challenges**

147. The Office of the Chief Magistrate in the Ministry of Justice, Legal and Parliamentary Affairs reports the following challenges in applying the best interests of the child principle. Firstly, often the parties to the dispute are children's parents. The reasoning

<sup>44</sup> Child Poverty In Zimbabwe Report Policy Template: Towards Meeting Millennium Development Goals (MDGs) Report produced as part of UNICEF global study on child poverty.

<sup>45</sup> Ibid.

of the two parties is often clouded by past emotions and experiences which are often not positive. Generally, courts in such circumstances are assisted by the Social Welfare reports, but which unfortunately, tend to be submitted late, compelling the court to decide the matter without them. This aspect usually makes it difficult for the court to arrive at a fair assessment of their conflicting evidence so as to determine a position that will serve the best interests of the child in question. Secondly, given the evolving capacities of the child, the best interests of the child today are not necessarily the same tomorrow. What may be good for a child at age 3, may no longer apply at age 13. There is thus a measure of conjecture and subjectivity in ascertaining the best interests of the child

### **C. The rights to life, survival and development (art. 6)**

148. The Declaration of Rights under the Constitution of Zimbabwe includes the right to life. Although no specific mention is made of children, the Constitution applies to them. The Courts have adopted the principle that the sentence of death cannot be passed on to a person who was under the age of 18 at the time that the offence was committed.

149. The Children's Act [Chapter 5:06] section 7 specifically prohibits the neglect or ill treatment of children in any manner that would affect their health and morals. Neglect, ill treatment or abandonment of the child includes failure to provide basic necessities such as food and clothing. Contravention of the Act attracts sentences of up to five years. As regards the rights to survival and development, these are discussed in the paragraphs which deal with the economic and social issues in this report.

#### **Measures taken to register deaths of children, causes, investigations and reporting of such deaths and to prevent and monitor incidences of suicide**

150. The Births and Deaths Registration Act [Chapter 5:02] regulates the registration of births and deaths. Investigations of deaths are also carried out in terms of the Criminal Law (Codification and Reform) Act [Chapter 9:23] as well as the Inquests Act [Chapter 7:07]. The Children's Act makes provision for social intervention that may detect and monitor cases of suicide.

### **D. Respects for the views of the child (art. 12)**

151. See part one, paragraph 30, for a discussion of this principle.

#### **1. Provisions to hear children in judicial and other proceedings and situations where a child can intervene, either directly or through a representative**

152. As indicated above, children are given a chance to express their views on decisions and actions due to be taken on them and their views are taken into consideration.

#### **2. Bodies where children participate in decision-making**

153. Children have the right to participate in decision-making bodies, which include:

154. Child Parliament: The Child Parliament was established in 1991 as a ceremonial institution specifically meant for the commemoration of the Day of the African Child. Later, due to the significance of the issues that were raised by Child Parliamentarians during their debates, the Child Parliament was then transformed into a leadership development and advocacy arm on children's rights with activities being carried out throughout the year.

155. Over the years, Child Parliamentarians focused on a number of topics of significance to the nation in general and children in particular. Such topics include:

- Survival of Children;
- Basic Human Rights;
- Orphans and Vulnerable Children;
- Rights and Challenges;
- Fighting Child Abuse is fighting HIV and AIDS.

156. One of their successful programmes has been the 7 days of activism against child abuse, which falls within the International 16 Days of Activism Against Gender based Violence from 25 November to 10 December 2008. This event has been set for weeklong activities that range from awareness raising, advocacy, education, training and performing arts.

157. National Youth Council: The Zimbabwe Youth Council was established under the Zimbabwe Youth Council Act, N. 16 of 1997. The administration of the Act is the responsibility of the Minister of Youth Development and Employment Creation. The Council funded through a grant from the fiscus, is mandated to register all national youth organizations, recommend or facilitate youth exchange programmes and ensures effective participation and representation of the youths in relevant programmes nationally and internationally. In addition it also advises Government on the needs of the youth and facilitates training seminars for the youth and youth leaders. One of its core programmes is the Child Parliament Programme.

158. Child Protection Committees (CPC): These are instituted under the National Action Plan for Orphans and Vulnerable Children in an endeavour to include children's participation and in particular the participation of orphans and vulnerable children, as stated in part one. Children have a clearly defined forum for them to discuss issues that concern them from community up to national level. In order to mainstream and fully integrate children's issues at all levels, Children's CPCs are sub-committees of the adult CPCs. The children meet regularly with technical and financial support from identified NGOs in each province and they choose two representatives who sit on the adult CPCs, reporting on the issues brought out in their own children's meetings. At all levels of children's participation, the chosen chairperson and secretary automatically become the representatives of the children in the adult CPCs. At national level, the children representing all the provinces choose a chairperson and a secretary who participates in the meetings of the Working Party of Officials.

### **3. Measures taken to raise awareness of families and the public on the rights of the child**

159. Awareness programmes are mainly run through media programmes such, as fully discussed in part one, paragraph 30.

### **4. Extent of incorporation in curricula**

160. The extent of incorporation of the provisions of the Convention on the Rights of the Child into the curricular of various professions is discussed under Paragraph 79 above.



## IV. Civil rights and freedoms (arts. 7, 8, 13–17 and 37 (a))

### A. Names and nationality (art. 7)

161. Every child is entitled to a name. In cases of abandoned or orphaned children, registration is facilitated by the Department of Social Services, who may also provide the child with a name, in cases of abandoned babies.

#### 1. Measures taken to ensure legal recognition of rights

162. The Zimbabwean Constitution provides for citizenship on the grounds of birth, descent and registration, in accordance with sections 4, 5, 6 and 7. However, prior to Constitutional Amendment No. 14 of 1996, there were certain constitutional provisions which allowed for discrimination on the grounds of sex and gender, in the sense that if a Zimbabwean man married a foreign woman, the wife would automatically be entitled to Zimbabwean citizenship, a status she would continue to enjoy during the subsistence of the marriage. Where a Zimbabwean woman married a foreign man the latter would not be entitled to an automatic right to citizenship but would be granted a residence permit. The children of a Zimbabwean woman married to a foreigner would thus not be eligible to obtain Zimbabwean citizenship since it was traced through their father's nationality.

163. Discrimination on both grounds of gender and sex is now constitutionally prohibited by virtue of Constitutional Amendment No. 17 of 2005.

#### Registration of Births

164. All children are entitled to have their births registered in Zimbabwe. Section 10 of the Births and Deaths Registration Act [Chapter 5:02], provides for compulsory registration of births, stillbirths and deaths. The responsibility of giving notice of birth under section 11 of this Act has been placed on the parents of the child or guardians or any other adult or headmen in the rural areas. These provisions have been highly publicised and broadly interpreted in practice, in order to ensure that all children born in Zimbabwe are registered.

165. See part one, paragraph 27, for a full discussion of birth registration.

#### Implementation in practice by all bodies

166. A lot of gains have been recorded through the measures highlighted above and the expansion of registration at clinics, hospitals and mobile units has enabled children in the remotest parts of the country to be covered. Public education continues and the introduction of birth registration at schools is under consideration. Currently where a school head becomes aware that a child is not registered, such child is referred to the Department of Social Services for birth registration.

#### 2. Measures taken to sensitize and mobilize public opinion on registration

167. The Government through the public media has spearheaded awareness campaigns on the importance of registration. These were complemented by the following stakeholders: Save the Children Norway-Zimbabwe, Inter-Country People's Aid, Child Protection Society, Farm Community Trust, Plan International, Save the Children UK, World Vision, Human Rights Trust of Southern Africa, Justice for Children Trust and United Nations agencies.

168. In rural areas, the Ministry of Information and Publicity has information officers and mobile vehicle operators who conduct awareness campaigns on the importance of birth registration. There are also information kiosks where members of the public can access

information pertaining to birth registration procedures. At the grass roots level, there are community development officers and ward coordination officers from the Ministry of Women Affairs, Gender and Community Development, who amongst other things, disseminate information on birth registration procedures.

**3. Measures taken to provide adequate training to the Registrar General's Staff**

169. The Ministry of Home Affairs is collaborating with UNICEF to enhance access to birth registration in ten selected districts in a European Commission supported project (2007–2008), as fully stated in paragraph 27 in part one. The activities include training of officers from the Registrar General's Office on child rights based programmes in birth registration. The purpose of the training is to sensitise the Registrar General's staff on taking birth registration as a fundamental right of the child and a legal protection concern. The staff of the Registrar General's Office is expected to advocate increased birth registration for orphans and vulnerable children in the District Child Protection Committees in all the districts.

**4. Elements of the identity of the child included in birth registration and measures taken to prevent stigmatisation or discrimination of the child**

170. In order to avoid stigmatisation as well as discrimination, the 1996 Constitutional Amendment No. 14, makes reference to children born to unmarried parents as children born out of wedlock, as opposed to the term "illegitimate children".

171. The Registrar General is empowered under section 15 of the Births and Deaths Registration Act [Chapter 5:02] to assign a place and date of birth to children whose place and date of birth are unknown. In practice this relates to abandoned children. Where a child is born in such places as a prison, that fact is not included on their birth certificates.

**5. Measures taken to ensure a child's right to know and be cared for by her/his parents**

172. The Department of Social Welfare runs a programme that ensures that children in difficult circumstances are fostered and adopted to allow for their care.

173. The probation officers work with the police and other law enforcement agents to ensure the application of the Children's Act [Chapter 5:06].

**6. Right to acquire nationality by children who would otherwise be stateless, such as children born out of wedlock, asylum seekers and refugee children**

174. In order to address the possibility of statelessness in the situations highlighted above, the Government of Zimbabwe amended the Constitution (Amendment No. 14 of 1996) to remove discrimination based on gender. The implications of this amendment on the children are as follows:

- A child born to a Zimbabwean man who divorced a wife who had renounced her original foreign citizenship would be entitled to Zimbabwean citizenship whether or not that mother decides to reclaim her foreign citizenship on divorce;
- Children born in or out of wedlock between a Zimbabwean woman and non-Zimbabwean man, may be registered as Zimbabwean;
- Children born to refugees are registered and accorded the citizenship status of their parents;
- A child born to irregular migrants is registered but is not accorded Zimbabwean status.

## **B. Preservation of identity (art. 8)**

175. In a situation where neither parent is a Zimbabwean citizen, though legally resident in Zimbabwe, the children are entitled to the nationality of their parents, and they get registered as non-citizens of Zimbabwe. These measures, which are in line with international practice, were put in place in order to ensure that all children are registered in compliance with the Convention.

## **C. Freedom of expression (art. 13)**

176. The protection of freedom of expression provided for under section 20 of the Constitution applies to all persons living in Zimbabwe, including children as discussed in part one, paragraph 30.

### **1. Measures taken to guarantee freedom and to seek, receive and impart information regardless of frontiers**

177. Measures are outlined in part one, paragraph 30, highlighting the views of the child.

### **2. Restrictions to the freedom of expression (art. 13, para. 2)**

178. The two restrictions cited under paragraph 2 of article 13 of the Convention, are among the provisions enshrined in section 20 of the Constitution of Zimbabwe, these restrictions also apply to children.

179. In addition, the freedom of expression is subject to parental discipline. Although the provision is unfettered, it was designed to instil parental control in relation to matters that may not befit the age of the child concerned.

## **D. Freedom of thought, conscience and religion (art. 14)**

### **1. Exercise of freedom vis-à-vis children's evolving capacities**

180. The Constitutional provision (section 19) on the freedom of thought, conscience and religion is in conformity with the requirements of the Convention. The constitutional guarantee is crosscutting, hence covering children belonging to minority groups.

181. The Government introduced moral education under the Education Act [Chapter 25:04], which allows children to learn and discuss moral values together with religious values, without restricting these to a particular religion. This broad coverage of moral values as opposed to what amounts to a promotion of one religion seeks to address the freedom of worship as enshrined in section 19 of the Constitution of Zimbabwe.

182. The fact that the Constitution recognises the freedom to worship in the religion of one's choice is aptly addressed in the case of *Dzvova vs. Minister of Education Sport and Culture*.<sup>46</sup> The facts of the case are that the Dzvova family hold Rastafarian beliefs and maintain dreadlocks as part of their religion. However, they enrolled their son in a school where pupils are expected to cut their hair. When the school requested that Farai cut his hair, negotiations between parents and the school broke down which culminated in the following correspondence from the school;

<sup>46</sup> Farai Dzvova V (1) Minister of Education Sports and Culture (2) Ruvheneko Primary School (3) F Nyahuye. Judgement No. 26/07, Civil Application No. 291/06, ZLR (25).

“You are cordially advised that one of our regulations as a school, is that hair has to be kept very short and well combed by all pupils attending Ruvheneko Government Primary School, regardless of sex, age, race or religion: You are therefore being asked to abide by this regulation, failure to which, you will be asked to withdraw or transfer your child Farai Benjamin Dzvova to any other school. This is to be done with immediate effect.”<sup>47</sup>

183. The child was subsequently prevented from attending classes. The parents then obtained an interdict from the High Court ordering the school to allow Farai to attend class, and not discriminate against him in any other way on the basis of his hairstyle or his religious beliefs pending the determination of the matter by the Supreme Court. The Supreme Court looked at the tenets of the Constitution, the Education Act, Human Rights Treaties, national and international case law. The Court concluded that section 19(1) of the Constitution provides as follows:

“Except with his own consent or by way of parental discipline, no person shall be hindered in the enjoyment of his freedom of conscience, that is to say freedom to change his religion or belief, and freedom, whether alone or in community with others, and whether in public or private, to manifest and propagate his religion or belief through worship, teaching, practice and observance.”

184. In addition, the Court found that section 4 of the Education Act [Cap. 25:04] forbids discrimination on the grounds of race, tribe, place of origin, national or ethnic origin, political opinions, colour, creed or gender.

185. The Supreme Court found that the head teacher had exceeded the powers as stipulated in the SI 362 of 1998, which derogate from the constitutional rights of the pupils.

186. The Supreme Court ordered that the boy be allowed to enter school, that the school authorities refrain from negatively interfering with the boy such as separating the boy from his classmates and keeping him in a solitary environment or in the company of adults. The court also ordered the school not to discriminate against Farai Benjamin Dzvova on the basis of expression of his hairstyle or his religious beliefs.

## **2. Freedom vis-à-vis religious teaching in public schools**

187. This has been discussed above under paragraphs 180-186.

## **E. Freedom of association and peaceful assembly (art. 15)**

188. The Zimbabwean Constitution upholds the right of all its citizens to assemble and associate freely. These freedoms are contained in section 21 of the Constitution, as reflected in the Initial Report.

### **1. Measures taken to ensure exercise of freedom**

189. In practice, children freely participate in such activities as performing arts. These include the Annual Cultural Dance Festival for Children, the Children’s Performing Arts Workshop and Citizen Child. In schools children are encouraged to form or join groups such as interact clubs, Aids clubs, public speaking and scripture union among others. The public media also caters for children’s views.

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<sup>47</sup> Excerpt from Letter from head of Ruvheneko Government Primary School, Mr. F. Nyahuye dated 26<sup>th</sup> January 2006.

190. The Government has made efforts to include the voices of children in civil society. The International Day of Broadcasting held annually on 9 December provides an opportunity for children to present and broadcast live on national radio and television station.

191. On this day children are also accorded an opportunity to air their grievances in so far as the Kidznet programmes are concerned. They highlight what they like to see and the time they wish to view or hear child-focused shows being broadcast.

## **2. Annual cultural dance festival for children**

192. The Children's Performing Arts Workshop, an arts and cultural group for children, comprises young boys and girls of all races who perform various plays and dances as part of enriching their understanding of culture and its diversity. It conducts outreach programmes in many schools throughout Zimbabwe and has visited Japan and other countries.

193. There are other associations for children such as Boy Scouts, Girl Guides, Junior Parliament, Councillors, Dance for Life, Interact and Rotary which encourage good citizenship, fellowship and good leadership qualities which are in keeping with the Convention. Through these groups, children associate freely and are encouraged to engage in self-help projects and charitable activities. Cultural exchange programmes are organised under the auspices of these associations. There have also been various cultural exchange programmes with various diplomatic missions accredited to Zimbabwe.

## **3. Restrictions to the exercise of freedom**

194. The restrictions recognised by the Convention in terms of Article 15, also apply to Zimbabwe, as enshrined in section 21 of the Constitution.

## **F. Protection of privacy (art. 16)**

### **Measures taken to ensure protection of privacy**

195. The right to privacy is protected under section 17 of the Constitution. However, the protection is subject to parental consent and this is in line with Article 5 of the Convention, which requires parental guidance and direction on matters concerning the rights of children.

196. The right to privacy is further guaranteed under the Children's Act [Chapter 5:06]. Section 5 of the Act prohibits the publication of the names, addresses and schools or any information that would reveal the identity of a child involved in proceedings in a court. Section 5(5) of the Children's Act prohibits publishing of children's names except by leave of the court.

197. The Domestic Violence Act [Chapter 5:16] prohibits virginity tests among female children, which is a violation of the girl's privacy.

198. The right to privacy is also guaranteed under the Access to Information and Protection of Privacy Act (Chapter 10:27). Information relating to personal privacy is protected under that Act if disclosure of such information will result in a threat to the applicant's or another person's safety.

## **G. Access to appropriate information (art. 17)**

### **1. Access to national and international sources**

199. Section 20 (1) of the Constitution states that:

“Except by way of parental discipline, no person shall be hindered in the enjoyment of his freedom of expression, that is to say, freedom to hold opinions and to receive and impart ideas and information without interference, and freedom from interference with his correspondence.”<sup>48</sup>

200. Children are entitled to information from the electronic and print media as well as the internet. The Censorship and Entertainment Act [Chapter 10:04] governs access of appropriate information by children. Thus, although the right to freedom of expression and to receive and give ideas is very much recognized in the Constitution, it does permit an exception for restriction by way of “parental discipline”.

201. A Board has been established to censor the importation, production and dissemination of undesirable photographic material, literature, music and videos. The Board’s responsibilities are inter-alia to ensure that the information provided to children in Zimbabwe through both the print and the electronic media, is censored whilst allowing them to enjoy their access to appropriate information for their mental, physical, moral and spiritual development. This covers the requirement by the Convention to ensure that information availed to children is not harmful to their well-being.

202. In terms of the Broadcasting Act [Chapter 2:01], Government sponsors some child focused community programmes on both radio and Television. Private media producers are also encouraged to broadcast children’s programme, resulting in a good number of such programmes under Kidznet production. Children share information and express themselves on different topical issues, including child abuse.

203. There are a number of Internet cafes in urban areas where children can access information of their choice from the Internet.

204. The President of Zimbabwe has embarked on a computer donation programme for schools in order for children in both urban and rural schools, to access Internet facilities during their research and academic activities.

### **Challenges**

205. Access to Internet and satellite television is not subject to any form of censorship in, accordance with the Censorship and Entertainment Act [Chapter 10:04]. Satellite television is not subject to Government control therefore leaving it wholly up to the parents to exercise discretion. This therefore makes it difficult for the Government to protect children from information, which may be harmful to their well-being.

206. Although quite a number of rural areas have electricity, some are still to be electrified making it a challenge for children in those areas to access the internet and other electronic based services.

### **2. Production and dissemination of children’s books**

207. The Government, in partnership with civil society, has established an Annual National Book Week to promote a culture of reading, which event is widely publicised on

<sup>48</sup> Constitution of Zimbabwe, § 20(1).

both the print and electronic media. During the National Book Week, publishers donate books to children's libraries.

208. To complement Government's efforts, NGOs support the awareness campaigns on books or information relating to such topical issues as child sexual abuse in schools and communities. This programme empowers school children by educating them on their rights and encouraging them to report any violations of these rights. Materials such as fliers, pamphlets, posters and stickers are produced and distributed to both the school children and their parents, to educate them on the provisions of the Convention. The following NGOs: Plan International, Save the Children Norway-Zimbabwe, Save the Children U.K., Human Rights Trust of Southern Africa, Justice for Children Trust and CONNECT, continue to spearhead public awareness programmes by providing both technical and financial support to Government. Commercial publishers have also increased the production of children's books.

209. Mobile libraries supported by Save the Children Norway-Zimbabwe have been established in the south western and some parts of rural Zimbabwe to improve children's access to information.

### **3. International cooperation in production, exchange and dissemination of information**

210. Zimbabwe has continued to receive support from the international community in the production and dissemination of information pertaining to children. Examples of the books are, "Human Rights and Democracy in Zimbabwe, 2001" and "Helping Children in difficult situations". These were published with support from UNESCO and the Danish International Development Agency.

## **H. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (art. 37 (a))**

### **Constitutional and legislative protection of the right**

211. The Constitution has, under section 15, outlawed torture, inhuman and degrading punishment and any other such treatment and this equally applies to children.

212. The Children's Act [Chapter 5:06] prohibits assault, ill treatment and abandonment of children by their parents or guardians. The Domestic Violence Act [Chapter 5:16] recognises children as potential victims of domestic violence, and includes as an emotional abuse, violence committed in the presence of children.

213. For a discussion on corporal punishment, see part one, paragraph 31.

## **V. Family environment and alternative care (arts. 5; 18, paras. 1–2; 9–11; 19–21; 25; 27, paras. 4 and 39)**

214. The Government is committed to the development of the noble underlying values of the family with a view to promoting the full enjoyment of children's rights in Zimbabwe.

### **A. Parental guidance (art. 5)**

#### **Family structures**

215. Zimbabwe enjoys a diversity of cultures, which play an important role in determining family structures. There are two major family structures in Zimbabwe, namely

the nuclear family and the traditional (extended) family. However, there are other family structures such as the single parent family, child headed families and the elderly headed families. The support system within the traditional family structure has been severely strained due to existing economic hardships, the HIV and AIDS scourge and a change of family values in taking care of the extended family members. The 2002 National Census revealed that 48,223 households were headed by children.

216. The Government supports and enhances the family environment by providing health, educational and social facilities, while family heads have the responsibility of giving appropriate guidance and direction to children in terms of the Convention. The guidance and direction are consistent with the best interests of the child and the development of its evolving capacity. The Government has put in place a National Programme of Action run by the Ministry of Health and Child Welfare to co-ordinate the implementation of the Convention on the Rights of the Child.

#### **Child Headed Households**

217. According to the ZDHS of 2005–2006 six in ten Zimbabwean children were not living with both parents. More than one-quarter of children were not living with either parent. A quarter of children were orphaned, that is, one or both parents were deceased.<sup>49</sup>

216. The Government through the NAP for OVC caters for children who have lost their parents by providing school fees and other necessities. The results of the ZDHS show, that, orphaned and vulnerable children are slightly disadvantaged with respect to school attendance in comparison to other children; 89 per cent of OVC were currently attending school, as compared with 91 per cent of the other children. Double orphans are also slightly less likely to be in school as compared to children whose parents are both alive and who live with at least one parent.

#### **Challenges**

218. Despite the great strides that Zimbabwe has made in dealing with the orphaned and vulnerable children, access to basic needs remains a challenge due to inflation, low productivity, as well as the HIV and AIDS pandemic.

#### **Parental educational programme/ family counselling services**

219. The Ministry of Health and Child Welfare, with the assistance of the United Nations Children's Fund (UNICEF), conducts family counselling programmes in the area of HIV and AIDS, through the Home-Based-Care and the Prevention of Mother to Child Transmission (PMTCT). According to the Ministry, the number of PMTCT sites have increased from, 1,382 in 2005, to 1,412 in 2006.

220. The Ministry of Education, Sport and Culture has a special section in the school curriculum in which parenting skills are upgraded so that they can better support their children in terms of nutrition, care, health, water and sanitation and basic hygiene. This initiative was developed to increase understanding of African traditional values, practices and cultural perceptions of children in relation to child rights. For example, before parents enter the programme, trainers are exposed to traditional nutritional methods of cooking and preservation.

221. In terms of the Domestic Violence Act [Chapter 5:16], families can undergo counselling in situations of violence. The Courts are empowered to order counselling where they are of the view that a victim of domestic violence or other persons involved require

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<sup>49</sup> Zimbabwe Demographic and Health Survey 2005–2006. Central Statistical Office, Zimbabwe (2007).



such counselling. Further, in October 2007, the Anti-Domestic Violence Council was established to monitor the implementation of the Act. This Council is composed of representatives from Government Ministries and, civil society organisations mandated to deal with children's rights.

## **B. Parental responsibilities (art. 18, paras. 1–2)**

### **1. Legislative measures**

222. Generally, parental responsibilities under the Children's Act [Chapter 5:06], are as reported in the Initial Report. The laws relating to the custody and maintenance of children confer the common responsibility of the upbringing and development of children on parents. Children born in wedlock, fall under the full responsibility of both parents. Issues of awarding custody, in the case of separation or divorce of the parents are considered in line with the principle of the best interest of the child and custody is determined in terms of the Children's Act [Chapter 5:06]. One parent will be accorded custody rights while the other remains with access rights so that the rearing responsibilities are shared as far as possible. Parents may also be granted joint custody.

223. Where custody is awarded to one parent, the other parent has the duty to maintain the child in terms of the Maintenance Act [Chapter 5:09]. This also applies to children who are dependents of such adults. Recovery of maintenance from parents or guardians living abroad is done in terms of the Maintenance Orders (Facilities for Enforcement) Act [Chapter 5:10]. The Act so far applies to 26 designated countries. Where no such reciprocal arrangements exist, affected countries rely on their diplomatic relations.

#### **Challenges**

224. An apparent weakness with access laws is that the father of a child born out of wedlock has no automatic right to access. The father of a child born in wedlock is the sole guardian of the child, hence the mother has to seek the father's consent, for example, to obtain travel documentation for the child. This, depending on the situation at hand, may not be in the best interest of the child.

### **2. Measures taken to support parental responsibilities**

225. The Social Welfare Assistance Act [Chapter 17:06] makes provision for parents who are facing challenges in carrying out their responsibilities to apply to the Government for assistance, through the Department of Social Welfare.

226. The Education Act [Chapter 25:04] provides for the regulation of early childhood learning programmes, centres and training of teachers for such centres.

## **C. Separation from parents (art. 9)**

### **1. Legislative, judicial and other measures to protect children from being separated from their parents**

227. As discussed under Article 18, parents have the sole responsibility over the custody of their children, unless it is not in the child's best interest to remain in the custody of its parents. Powers of removal of children from their parents' or guardian's custody, in terms of section 14 of the Children's Act [Chapter 5:06] are as reported in the Initial Report.

**Participation of and expression of views by all interested parties**

228. The Court, hearing an application for removal, has power to summon the parents or guardians of the affected children, to an inquiry into such removal, in order to hear their views, as well as those of the children concerned.

**2. Right of separated child to maintain personal relations and direct contact with both parents**

229. The law is silent on issues of contact where a child has been removed from its parents or guardians at the instance of the State. However, where separation is for purposes of awarding custody to one parent as opposed to the other, the absent parent is entitled to apply for access rights in terms of the law.

**D. Family reunification (art. 10)**

230. As indicated in the Initial Report, the Constitution of Zimbabwe guarantees the right to enter and leave Zimbabwe freely. This provides an opportunity for family re-unification where there has been separation for one reason or another. However, the parent who intends to enter or exit the country has to meet all the immigration requirements. As discussed under Article 9, where separation from parents is sanctioned by an order of the court, access rights, so granted will have to be evoked.

231. As a further development since the Initial Report, Zimbabwean children are now entitled to hold passports of their own from infancy. Where a mandatory fee for the passport is paid, the fee for the cost of a child's passport is half that of an adult.

232. There are, therefore, no legal impediments or obstacles to family reunification. Where children or young persons are proven to be foreigners, and, are not represented by an Embassy or High Commission or a Consular office, Zimbabwe issues the child or adult with a non-citizen travel document, which allows them to travel back to their country of origin. With regards to refugee children the Government, UNHCR, ICRC and other players facilitate family reunification and tracing.

**E. Illicit transfer and non return (art. 11)**

233. Zimbabwe acceded to the 1980 Hague Convention on the Civil Aspects of International Child Abduction, whose main objective is to provide for matters connected with securing the prompt return of children wrongfully retained in or removed from, any contracting State and, to ensure that rights of custody and access under the law of one contracting State are effectively respected in the other contracting State. Zimbabwe incorporated the Convention into her domestic legislation by attaching it to the enabling Act namely the Child Abduction Act [Chapter 5:05].

234. Under the Child Abduction Act [Chapter 5:05], Zimbabwe, can through the Central Authority, enter into bilateral agreements with other States to facilitate the return of children unlawfully removed from such countries.

235. Further, the Children's Act [Chapter 5:06] prohibits the removal of children who are under the custody or supervision of other persons, without written permission from the Director of Social Services. As discussed under Article 9, access or custody rights are only granted by the court, which takes into consideration, the best interest of the child.

236. Zimbabwe does not have a specific piece of legislation to prosecute perpetrators of human trafficking. However, there are provisions in the Criminal Law (Codification and

Reform) Act, which protect children from trafficking. In April 2006 the Government formed an Inter-Ministerial Taskforce on Trafficking, one of whose tasks is to work on legislation to criminalise human trafficking. The Committee is required to carry out national information campaigns and promote the deployment of counter trafficking experts at the entry and exit points of the country to intercept traffickers. A ground research and study is presently ongoing to assess the extent of child trafficking in Zimbabwe. The study is co-financed by IOM and UNICEF.

237. Previous research on trafficking at Beitbridge border post, the main port of entry into South Africa, it was found out that there were children from Zimbabwe who were trying to cross over to find jobs or join their family members. The present socio economic climate and the escalating numbers of orphans and vulnerable children have increased this cross border activity.

### **The Cross-Border Project**

238. Since 2002, Save the Children Norway-Zimbabwe has been supporting an initiative in partnership with the Department of Social Services and the Beitbridge District Local Authority, called Light the Children's Path, meant to develop community-based support for orphans and vulnerable children. The Beitbridge District Council appointed a Child Protection Coordinator to co-ordinate activities supporting children in the district, and a Child Protection Committee to monitor and facilitate the care of vulnerable children. The Child Protection Committee in Beitbridge drew attention to the large numbers of unaccompanied children, aged from 13 to 18 years, among deportees mainly from South African, who subsequently try to survive on the streets of the town. The Committee approached Children Norway-Zimbabwe to support a pilot initiative to give interim care for these children, called the Cross-Border Initiative. The overall objective of the pilot project was to develop protection mechanisms for the children. The specific objectives of the project are:

- To protect children repatriated from South Africa from all kinds of abuse;
- To provide repatriated children with basic needs, in particular, food, medication, and bus fare to return to their rural homes;
- To offer psycho-social support – including counselling by peers and caregivers;
- To establish a referral and follow-up system for the support of repatriated children in their communities.

239. In designing the project, the CPC devised procedures for handling repatriated children. These would involve initial interviews and screening at the border post, before taking them to a transit center situated 20km out of Beitbridge. The new Beitbridge Reception and Support Centre was officially opened in May 2006 with the assistance of the International Organization for Migration (IOM). The project continues to provide interim care to deported unaccompanied children. The children are registered and they undergo counselling at the center by the Child Protection Officers. The project facilitates family tracing and escorting children to their places of origin. There is now another important project component of following up children to their places of origin as part of facilitating the provision of social support services in order to curb their migration.

240. Since the inception of the project from June 2006 to December 2007 a total of 4,736 children were assisted. However, for the period January to December 2007 a total of 3,833 children were provided with interim care, counseled, escorted to places of origin and some reunified with their families. 89 per cent are boys compared to 11 per cent girls. These children were found to have originated mainly from border districts within the country.

**F. Recovery of maintenance for the child (art. 27, para. 4)**

241. Issues of maintenance are discussed above under section V B, on “Parental Responsibilities”.

**G. Children deprived of their family environment (art. 20)**

242. The Children’s Act [Chapter 5:06] provides that children deprived of their family environment be entitled to special protection and assistance.

243. Before the court considers placing a child under foster care or adoption, preference is given to the extended family and all other family structures. Institutionalization is taken as the last resort. The number of OVC has risen due to the HIV and AIDS pandemic. According to the Zimbabwe National HIV and AIDS Estimates, 2007, the estimated number of HIV and AIDS Orphans (0–14 years) was 975,956 as at the end of 2007. To mitigate the effect of orphan hood, the Government came up with the NAP for OVC, which promotes community-based strategies, and intervention models which provide for the care of OVC by communities. Civil Society has since emulated this concept and set up community based child protection projects. These projects include giving assistance in the payment of school fees, educational needs, capacity development in life skills and skills development for livelihood projects.

244. Through the community-based interventions, the Government has resuscitated the concept of Zunde raMambo.<sup>50</sup> The Zunde raMambo provides for food security and the nutritional needs for OVC.

**1. Children living in the streets**

245. The Government, in conjunction with NGOs, continues to make efforts to house street kids and provide them with educational and technical training. The Child Welfare Forum members have continued to monitor and identify children in the streets, and, in 1998 a total of 834 children were recorded.

246. According to a 2002 report, there were 12,000<sup>51</sup> children living on the streets, 5,000 of whom were in Harare. Of the children interviewed 40 per cent cited poverty as the reason for their resort to street life, 30 per cent abuse, 20 per cent orphan hood and 10 per cent fun and an escape from discipline at home. An updated study also indicated that child abuse continues to be a major issue concerning street children.<sup>52</sup> The national response on children in the streets has been largely influenced by the Children’s Act, which effectively provides for such children to be regarded as children “in need of care”. Upon removal from the streets, the children are placed in places of safety for rehabilitation.

**Challenges**

247. Due to current economic challenges, which are crippling the capacity of places of safety, some children opt to return to the streets where they view life as more attractive and fun.

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<sup>50</sup> Zunde Ra Mambo is communal field work by the community for the benefit of the indigent. Crops harvested through this programme are kept specifically to feed the disadvantaged within the community, in particular children.

<sup>51</sup> *Source*: Situation Assessment of Children in Zimbabwe Report of 2002.

<sup>52</sup> Situation Assessment of children living and/or working on the street in Harare and Chitungwiza (Harare Taskforce on Children living and/or working on the streets, 2004).

## 2. Children living in prison with their mothers

248. In terms of the Prison Act [Chapter 7:11] children below the age of 2 years are admitted into prison with their mothers, as some would also still be breastfeeding.<sup>53</sup> These children are considered as children in difficult circumstances. Measures are now being taken to avoid as much as possible the admission of such children in prison. The Chief Magistrate's Office discourages the sending of expecting and nursing mothers into custody whilst awaiting trial.

249. Other measures that have been taken to enable a normal environment for the children who are in prison with their mothers include a day care centre, which has been established at the biggest female prison in the country. The Zimbabwe Prison Service is constructing a female open prison for the majority of offenders. This will leave conventional prisons for those committing very serious crimes. The open prison system will make the environment as normal as possible for children living in prison with their imprisoned mothers. The fact that a mother is nursing a baby is taken as a ground for early release during the periodic presidential amnesty. This is intended to benefit the child.

## H. Adoption (art. 21)

250. The Children's Act [Chapter 5:06] outlines adoption procedures including the concealment of identity of an adopted child, and the adopted children register. Section 57 of the Act provides that the court shall appoint a probation officer to act as guardian of the child in order to safeguard the interests of the child before the court. The Act further provides that a parent shall not marry his or her adopted child. The Ministry of Public Service, Labour and Social Welfare has developed a brochure on foster care and adoption which explains the role of the Department of Social Services, the role of adoptive parents and other requirements.

251. Where foster or adoptive parents cannot be secured, children are placed in private care or public institutions.

## I. Abuse and neglect (art. 19), including physical and psychological recovery and social reintegration (art. 39)

252. As already indicated in the Initial Report, the Children's Act [Chapter 5:06] empowers police officers or probation officers to remove from any person's custody, children who appear abused or neglected. Zimbabwe has many laws and policies that protect children against abuse, exploitation and violence.

253. The Criminal Law (Codification and Reform) Act [Chapter 9:23], has widened the scope of sexual offences, thereby offering children of either sex, more protection. The Act also protects mentally disabled persons from sexual predation.

254. A Multi-sectoral Response Against Sexual Violence of Children chaired by the Ministry of Justice, Legal and Parliamentary Affairs is comprised of members of the police, education, health, social services and a number of child centred private voluntary organisations. The Multi-sectoral Response works closely with the Victim Friendly Coordinator based at the Ministry of Justice. Capacity building and awareness programmes

<sup>53</sup> However, following the publication of the book "A Tragedy of Lives; Women in Prison in Zimbabwe" by Weaver Press, in 2004 it was realized that children living in prison with their mothers are deprived of their family environment.

are held in schools and for the public through the use of drama and print media. There are to date, 230 police stations with victim support units manned by 483 police officers. Thirty-nine district coordinators and ten provincial coordinators monitor these units.

255. In addition, Victim Friendly Courts have been established at 17 Regional Courts in the country in order to create a confidential and conducive criminal justice system delivery system. The increase and countrywide distribution of the establishments has significantly reduced the distance children have to travel to access justice, while also easing the case backlog in the courts.

256. The Courts are equipped with cameras and close circuit televisions, which are designed to allow child survivors to talk freely and comfortably without having to face the perpetrator(s) who may instil fear in the victim and cause substantial emotional stress. In addition the law has been amended to allow the use of anatomically correct dolls for very young children to utilise while explaining their trauma.<sup>54</sup> There are other options children may use to explain their experience such as drawing and dramatising and role playing. The amendment to the Criminal Law (Codification and Reform) Act [Chapter 9:23], now enables nurses to examine sexually abused children and give evidence in court, and this has provided vulnerable children, especially those in rural areas, with greater protection under the law. Sexual abuse cases were usually delayed due to the legal requirement that only a medical doctor should conduct the examination of the child.

257. As already stated in this report, the Domestic Violence Act [Chapter 5:16] provides for the protection and relief of victims of domestic violence, by offering civil remedies such as counselling services, as well as protecting children from physical and psychological harm.

258. Sexually abused children are provided with treatment for sexually transmitted infections that they may have contracted. Victims are also tested for HIV and undergo counselling together with the family.

### **Challenges**

259. Abuse of children and reported juvenile rape cases are on the increase, this could be a result of poverty and orphan hood. The negative attributes seem to have been exacerbated by the economic hardships and the impact of the HIV and AIDS pandemic as well as a mistaken belief that sexual intercourse with a virgin girl cures AIDS.

## **J. Awareness raising**

260. See paragraph 403 below for information on the Stand up and speak out Campaign.

261. Due to awareness campaigns on children's rights by the Government, NGOs and the media, the Zimbabwean community is now forthcoming and is reporting cases of child abuse. One such campaign is the Zero Tolerance Campaign against Child Abuse where the Government, civic society organizations and UNICEF, raised awareness on the prevention of child exploitation and abuse among community based organisations and traditional leaders. Statistics reveal that most of the perpetrators of this crime emanate from within the family environment. In 1998, there was an increase of 22.5 per cent of child sexual abuse cases from the previous year. Of the total number of sexual abuse cases 7 per cent was on boys while 93 per cent was on girls. About 18 per cent of the offences were committed by fathers, uncles and cousins, 3 per cent by stepmothers, 71 per cent by boyfriends and

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<sup>54</sup> Amendment No. 8 of 1997 of the Criminal Procedure and Evidence Act.

neighbours, while 8 per cent were committed by strangers. In 2005 there were 1,541 cases of indecent assault, 2,990 cases of rape of children under the age of 16, 124 case of attempted rape and 223 cases of sodomy were reported.<sup>55</sup> According to the Victim Friendly Unit reports from January to August 2006, there were 3,717 cases of sexual abuses reported to the Zimbabwe Republic Police. These range from rape, sodomy to incest.

## **VI. Basic health and welfare (arts. 6; 18, para. 3; 23; 24; 26; 27, para. 1–3)**

### **A. Children living with disability (art. 23)**

262. The Government has put in place legislative measures to cater for the welfare and rehabilitation of disabled persons. The Constitution of Zimbabwe and the Disabled Persons Act [Chapter 17:01] both prohibit discrimination on the grounds of disability, thus providing for and recognising the rights of disabled children. Under the Disabled Persons Act, the Government has created the National Disability Board, which facilitates, among others:

- Access to education and employment of disabled persons;
- Participation in sporting, recreation and cultural activities;
- Prevent discrimination against disabled persons on grounds of their disability;
- Ensure compliance with international treaties relating to the welfare of disabled children.

263. The President of Zimbabwe has in the past appointed a disabled person to sit in Parliament so as to represent people living with disabilities, including children. The Ministry of Public Service, Labour and Social Welfare allocates 10 per cent of the BEAM programme funds to special schools for children with disabilities.

264. The Ministry of Education Sport and Culture with the support of Save the Children Norway-Zimbabwe, in partnerships with the local communities, has rendered support to disadvantaged rural schools. Some schools were provided with ramps, making them accessible to disabled children. Children with Albinism are provided with sun protective kits, which notably improve their class attendance rates.

#### **1. Access to rehabilitation and other services**

265. Efforts to increase and improve access to rehabilitation facilities are continuing since the last report. Special education programmes have been included in the curricula of teacher training institutions and universities to address issues of disabled children. Rehabilitation/Technician Training Schools have been established to train personnel in the care of disabled persons.

266. Through the community based rehabilitation Programme, disabled children in the rural areas are assisted so far as possible to live an independent life through the provision of orthopaedic appliances and other equipment and adaptation to the home environment.

267. The Government has put in place preventive measures to protect children against disability. The Public Health Act [Chapter 15:09] provides for the immunisation of children against disabling diseases such as polio. Early detection of disability is undertaken through

<sup>55</sup> World Fit for Children. Mid-Decade Progress Report Zimbabwe 2002–2006.

screening and the use of “at risk registers” as well as the growth monitoring of children. The Ministry of Health and Child Welfare is also running promotion programmes to educate the public on accident prevention in the home, which may result in disability.

### Challenges

268. The major challenge has been the inadequate resources for people living with disabilities such as hearing aids, wheelchairs, walking frames and crutches. The availability of braille materials and trained professionals such as speech therapists and sign language teachers remains a challenge. Societal discriminatory attitudes towards disabled persons also remain a challenge, which Government continues to address through sensitisation and awareness raising strategies.

## 2. Training of care givers

269. The Government continues to train care-givers. However, the high staff turnover that has negatively hit the health sector also affects this category of health workers. In the Ministry of Education, Sport and Culture the staffing situation in all provinces has been critical, as the vacancy rate remains high. The Ministry has found it difficult to retain Speech Therapists in provinces therefore specialist teachers for learners with language and hearing problems or linguistics have been seconded to vacant posts of Speech Therapists. Table 1 shows statistics of children with disability and special needs.

Table 1

<i>Special School</i>	<i>Number of schools</i>	<i>Enrolment Boys</i>	<i>Enrolment Girls</i>	<i>Total</i>
Mentally Retarded	13	420	211	631
Visual Handicap	3	180	149	229
Language Deficiency	1	51	29	80
Hearing Impaired	4	477	323	800
Special Classes Primary	758	9,973	7,355	17,328
Special classes Secondary	34	364	291	655
Resources Units Mentally Retarded	133	786	538	1,324
Resources Units Visual Handicap	30	110	88	198
Resources Units Hearing Impaired	105	490	378	868
Multipurpose Units	16	50	35	85
<b>Totals</b>	<b>1,097</b>	<b>12,901</b>	<b>9,397</b>	<b>22,198</b>

*Source:* Ministry of Education, Sport and Culture.

270. The idea of having resource units for learners who are mentally challenged was implemented as a way of reducing pressure on the few special schools in the country and as a way of promoting inclusive education. The challenge at the moment is to provide skills training for learners who would have completed primary school education. The large number of units at primary school level is not matched by the few facilities at secondary school level. There has also been a number of hearing impaired children entering formal schools and the introduction of resource units in both primary and secondary schools has resulted in more of these children accessing education.



271. Multi-purpose resource units have been established where there are not enough children to have resource units based on each category of disabilities. These are found mainly in sparsely populated areas of the country. The multi-purpose resource units are meant to facilitate access to education by all learners irrespective of their type of disability.

272. Table 2 below shows the number of children with disabilities and other special needs who were in the various special needs facilities and programmes in 2005.

Table 2

	<i>Number of Learners</i>		<i>Total</i>
	<i>Boys</i>	<i>Girls</i>	
1. Special Schools	3,856	2,974	6,830
2. Resource Units	11,765	4,061	15,820
3. Special Classes	4,359	2,838	7,197
4. Remedial	45,533	51,717	97,250
5. Mainstream	3,887	2,393	6,280
<b>Total</b>	<b>69,400</b>	<b>63,983</b>	<b>133,383</b>

*Source:* Ministry of Education, Sport and Culture.

273. Table 2 shows an increase of 37 per cent in the number of children benefiting from the various special needs facilities and programmes in 2005.

## **B. Health and health services (art. 24)**

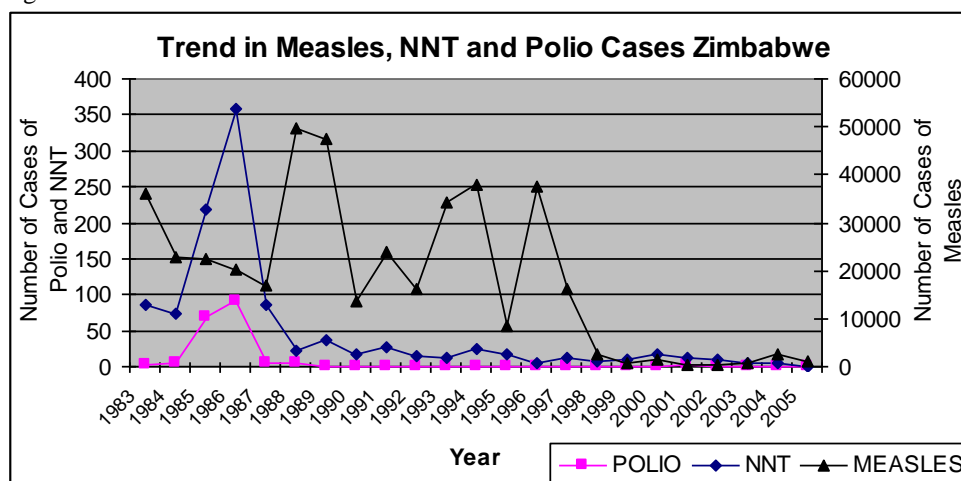
### **1. Basic health**

274. The Public Health Act [Chapter 15:09] provides for the protection of public health, including the prevention and suppression of infectious and sexually transmitted diseases, as well as the regulation of the provision of safe water and food supplies and proper sanitation. The Public Health Act also makes provisions for the promotion of good infant nutrition through encouraging and promoting breastfeeding and the setting of standards on the composition and quality of infant foods and feeding articles. It further provides for the sampling, testing and the regulation of marketing and sale of infant foods, and feeding articles. The Act also provides for the immunisation of children.

275. The Ministry of Health and Child Welfare has, since the presentation of the Initial Report, continued with the Expanded Programme of Immunisation (EPI).

276. EPI has been successful due to good programme management and also to adequate funding and support from partners and agencies. There are no epidemics of any of the EPI target diseases any more, though there were regular epidemics of measles in the 1980s and 1990s for example (see figure below). National immunisation days for poliomyelitis and measles have been held every four to five years, starting in 1998, to vaccinate those not reached by routine immunisation and to boost the vaccination coverage as part of the strategy to reach the eradication and elimination goals. In fact, measles only became truly under control after the first national immunisation days in 1998 (see figure 1 below). However EPI disease surveillance needs strengthening, with the AFP (acute flaccid paralysis) detection rate for polio surveillance for 2006 being below par up to June 2006. The data quality audit needs strengthening both for EPI disease surveillance and for monitoring coverage, with both timeliness and completeness being observed. EPI passed a data quality audit from the Global Alliance on Vaccine Immunisation (GAVI) in 2006.

Figure 1

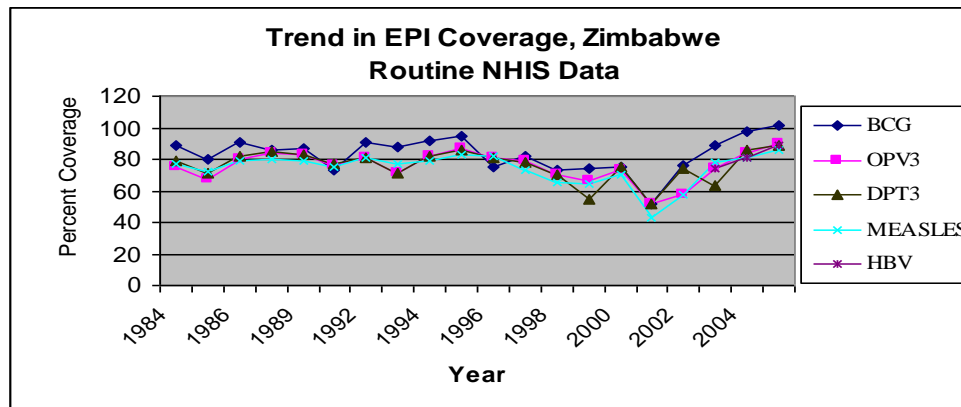


Source: Routine national health information data, Ministry of Health and Child Welfare.

277. Vaccination coverage reached the UCI (universal child immunisation) target of 80 per cent in 1990, then started declining in the mid 1990s and reached its lowest point of round 60 per cent in 2001 before gradually coming up to the current very high coverage of above 90 per cent for all the vaccines (Figure below), based on routine statistics.

278. Vitamin A supplementation was added to the EPI programme in 2002. Child Health Days (CHD) have been carried out twice a year to boost its coverage which was reported to have gone up to 79 per cent by the end 2005.

Figure 2



Source: Routine national health information data, Ministry of Health and Child Welfare.

279. With support from GAVI the country has introduced HiB vaccine into routine EPI, using the pentavalent vaccine (Diphtheria-Polio-Tetanus, Hep B and HiB) though this is uncertain because of global shortage from the only manufacturer in the world. Pediatricians have called for the introduction of a pneumococcal vaccine to curb cases of pneumonia and meningitis.

**Challenges**

280. The brain drain and the shortage of drugs and equipment continue to affect the public health delivery system. Zimbabwe is well endowed with highly trained health

professionals who are in high demand in the world. Staff attrition, mainly due to the brain drain, has increased within the public health sector since 2000 mainly pharmacists, environmental health officers, doctors and nurses. Between the period 2000–2006, the vacancy of doctors has increased to 58 per cent, pharmacists to 60 per cent and nurses to 20 per cent as reported by the Ministry of Health and Child Welfare.<sup>56</sup> To alleviate this challenge, the Government passed legislation to set up the Health Services Board to regulate and monitor service delivery by mobilising human and financial resources. The Health Services Board<sup>57</sup> was created in 2005 to improve conditions of services, which are responsive to the specific needs of the health service. The functions of the Board include the appointment of personnel, create grades and fix conditions of service, inquire into complaints, advise, supervise and monitor health policy planning and public health and technical performance of hospital management boards and to assist in resource mobilisation.

281. One of the outcomes of the AIDS epidemic has been the challenge of an increase in the number of children who have been orphaned, or whose social and economic vulnerability has been increased because of the serious illness of a parent or other adult in the family.<sup>58</sup>

282. The Zimbabwe Demographic and Health Survey (2005–2006) also found that 1 in 10 children was considered as vulnerable, i.e., they lived in a household in which at least one adult had been chronically ill during the year before the survey, or they had at least one parent living in the household, or elsewhere who had suffered from a chronic illness.

283. Zimbabwe has a declining rate of HIV prevalence despite a fraction of donor funding compared to other regions. On average Zimbabweans receive just US\$4 per person as compared to other countries in the region who receive more than US\$187.<sup>59</sup>

284. Another serious challenge is limited access to free anti-retroviral (ARVs) for vulnerable groups such as women, orphaned children and the less privileged in both rural and urban areas. The shortage of foreign currency is further hampering the procurement of drugs and raw materials to manufacture ARVs. According to the Ministry of Health and Child Welfare, pharmaceutical company can now produce ARVs in Zimbabwe. They are however, producing very small quantities due to the foreign currency shortage the country is facing. They are also not yet received the pre-qualification approval required by the World Health Organisation to allow manufacturing of ARVs that can be sold locally, regionally and internationally. CAPS Holdings Limited, another pharmaceutical company, also intends to start manufacturing ARVs. About three companies have so far been granted permission to produce ARVs by the Government.

## 2. Measures taken to reduce infant and child mortality

285. The national census results and the ZDHS show a rise, peak and decrease in infant and child mortality rates. The 2005/6 ZDHS confirms that infant and young child mortality declined between 1999 and 2005, with the largest decrease being in the under-five mortality rate from 102 in 1999 to 82 per 1,000 live births in 2005, as indicated in table 3 below.

Table 3

<sup>56</sup> World Fit for Children Mid-Decade Progress Report Zimbabwe 2002–2006, Government of Zimbabwe and UNICEF.

<sup>57</sup> Health Services Act [Chapter 15:16].

<sup>58</sup> Ibid.

<sup>59</sup> [www.unicef.org/aids/zimbabwe](http://www.unicef.org/aids/zimbabwe).

### Trend in Infant and Young Child (1–4 years age) Mortality Rates, Zimbabwe Census Data

Infant Mortality Rate (IMR)				Young Child Mortality Rate (CMR)			
Census Data		ZDHS		Census (1–4 years age)		ZDHS (under five years)	
1992	66	1994	53	1992	26	1994	77
1997	80	1999	65	1997	36	1999	102
2002	70	2005	60	2002	30	2005	82

Source: Census and DHS reports.

286. Greater access to opportunistic infection (OI) treatment for children using cotrimoxazole has also contributed to the decline in infant mortality. Other possible contributors include, the prevention of acute malnutrition, the successful EPI programme, the PMCTC programme, scaling up of Vitamin A supplementation and the focus on malaria control in children.

287. Meanwhile, the Maternal Mortality Ratio (per 100,000 live births) decreased from 695 in 1999 to 555 in 2005–6.<sup>60</sup>

### 3. Provision of medical assistance and health care for children

288. Children under 5 years receive free treatment in public health institutions and also access free treatment for AIDS and tuberculosis.

289. Under current policy, every citizen is supposed to live within eight (8) kilometers (5 miles) of a health facility. Geographic access is reasonable, with a wide network of health facilities particularly in the rural communal areas and urban areas. Previous construction of health facilities tended to leave out the commercial farming areas since their population was relatively sparse. With the current agrarian reforms more people are being resettled in the former large-scale commercial farming areas, and that geographic access to health facilities for the growing population in these areas is being addressed. Throughout the country buildings have been identified in the newly resettlement areas to operate as health points and outreach services have been revitalized with support of fuel and transport from our partners/agencies; 47 districts out of 63 districts in the country received New EPI vehicles from Global Alliance of Vaccine Immunisation (GAVI) in 2006 and 2008.

290. The challenge is the unavailability of drugs for free at Government hospitals thereby requiring parents to purchase drugs from expensive sources.

### 4. Prevention of disease and malnutrition

#### Prevention of malaria

291. The Ministry of Health and Child Welfare with the support of UNICEF, WHO, Global Fund and other partners, runs malaria prevention programmes such as the spraying of mosquitoes, provision of treated mosquito nets and anti-malaria tablets, as well as awareness campaigns. Malaria is a major public health problem in Zimbabwe, with over five million people at risk of contracting the disease annually.

<sup>60</sup> ZDHS 2005–6 indicated that the difference between the 1999 estimates and 2005–6 data is not statistically significant and thus, it is not possible to conclude that there has been any change in maternal mortality in Zimbabwe.

292. Zimbabwe is a signatory to the Abuja Declaration that urged countries to put concerted efforts to attaining interim Progress Indicators towards the 2010 Roll Back Malaria goals, namely that by 2005 they would have attained: (a) 60 per cent insecticide treated mosquito net use by children under 5 years age and by pregnant women; (b) 60 per cent of children under 5 years receiving prompt and effective malaria treatment; and (c) 60 per cent of pregnant women receiving malaria Intermittent Preventive Treatment (IPT). Preliminary results of a Rapid Assessment Survey conducted by the Ministry of Health and Child Welfare in April 2006 in five of the ten Roll Back Malaria districts with the highest malaria burden in Zimbabwe showed that significant progress had been made towards attaining some of these targets, with 66 per cent of children receiving prompt and effective malaria treatment while 73 per cent of pregnant women received IPT.

293. Insecticide treated mosquito nets are free for all children under five years and pregnant women in the ten Roll Back Malaria districts. The nets are distributed through health facilities. In 2005, over 300,000 insecticide treated mosquito nets were distributed. An opportunity for further expansion of the insecticide treated mosquito net distribution programme has arisen with round five of the Global Fund for AIDS, TB and malaria having approved funds for purchasing of insecticide treated mosquito nets. The annual number of people suffering from malaria has decreased from 1.8 million in 2004 to about 1 million in 2006.

#### **HIV and AIDS, PMTCT and paediatric HIV services**

294. Under HIV prevention measures, PMTCT sites have increased from 1,382 in 2005 to 1,412 in 2006.<sup>61</sup> In 2004, only 7 per cent of all HIV positive pregnant women received antiretroviral (ARV) prophylaxis to prevent mother to child transmission of HIV.<sup>62</sup>

295. Treatment and management of patients, including children, with AIDS started in 2004 mostly in the private sector through private sourcing of ARVs and by the end of that year about 6,000 patients were on treatment. The public sector has since commenced an ART programme in efforts to scale up and reach more of those in need. By December 2005, 25,000 patients (children and adults) were on ART which went up to 36,000 by May 2006. As of May 2006 there were 2,450 children on ARVs out of an estimated 70,000 eligible for treatment. With more than 90 per cent HIV infection in children due to mother-to-child transmission, an effective PMTCT programme accelerated the decline in incidence and prevalence among infants and young children. Since its inception in 1999, there has been a rapid and impressive scaling up of PMTCT, so that by the end of 2005 over 95 per cent of health facilities (HF) with Ante-Natal Care (ANC) services were providing PMTCT services (see table 4 below ) In 2005 67 per cent of those women attending ANC gave birth at sites providing PMTCT. A total of 196,912 new ANC women were seen at all PMTCT sites in 2005, 20 per cent of whom tested positive but only 40 per cent of these positive women received NVP (nevirapine) while 51 per cent of the babies received NVP. A comprehensive plan for rolling out PMTCT and pediatric HIV prevention, care, treatment and support for the period 2006 to 2010 has been prepared, which will consolidate the work already commenced.

Table 4

<i>Type of PMTCT</i>	<i>2002</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>
Comprehensive PMTCT sites	69	43	265	395

<sup>61</sup> World Fit for Children Mid Decade Progress Report, Zimbabwe 2002–2006.

<sup>62</sup> Meeting the Health Related MDGs through Accelerated Child Survival and Development – Scale up Action Plan for Zimbabwe 2007–2015, UNICEF, 2007.

Type of PMTCT	2002	2003	2004	2005
On-site HIV testing & NVP prophylaxis	69	43	234	347
On-site HIV testing, NVP prophylaxis and ART to mother	0	0	31	48
Minimum PMTCT sites (On-site NVP prophylaxis but refer for HIV testing)	0	162	535	1,000
<b>Total sites offering PMTCT</b>	<b>69</b>	<b>205</b>	<b>800</b>	<b>1,395</b>

Source: Ministry of Health and Child Welfare

N.B: Comprehensive PMTCT = On-site rapid testing by nurses or lab. Scientist Minimum PMTCT = Referral for HIV testing but provide on-site NVP.

### Prevention of malnutrition

296. To address child malnutrition, there is a child supplementary feeding programme (CSFP) that goes all the way back to the early 1980s, and has been resuscitated as and when it was needed. With the prolonged droughts of the 2000s, CSFP has been almost continuous since 2002, though it might have been stopped at certain times of the year such as immediately after the harvest. To ensure quality is maintained and that children are protected, all the food that is distributed in the CSFP is tested. In 2005, some of the food that was intended for distribution in Harare City had to be discarded because it was found to contain high levels of lead.

297. For severely malnourished children who require more intensive support, there is a therapeutic feeding programme which is carried out at health facilities, with an initial supply of pre-packed therapeutic milks and related drugs coming in mainly through UNICEF. The main challenge is that continuing to supply imported therapeutic milk is expensive and therefore not sustainable in the long run. Hospitals are thus encouraged to make their own therapeutic milks from raw ingredients (milk, water, cooking oil and cereal) based on a standard recipe. Zimbabwe is one of the few countries in the world that have a Code on marketing of breast-milk substitutes which can be legally enforced. The main challenge is how to enforce the code in the era of trade liberalization.

298. Recognising the specific needs of HIV infected people, there is a nutrition and HIV programme. Partnerships have been built so that the programme works closely with the ART rollout programme, together with the National AIDS Council which provides some of the funds and WFP which provides some of the food while WHO and UNICEF provide technical support. Guidelines on nutrition for HIV infected people have been published as well as a question and answer booklet. The programme is working with ZVITAMBO (an NGO) to find out suitably nutritious foods for therapeutic feeding of HIV positive children. A suitable oil-based recipe (whose ingredients are peanut butter, vegetable oil and milk) is used in some countries such as Malawi and have been adapted in Zimbabwe. However, food availability at household level remains a challenge and nutrition education at household levels continues as well as food security measures.

299. Supplementary feeding has been introduced in some schools to alleviate hunger. NGOs are complementing the work of the Department of Social Services in this regard.

## 5. Provision of pre and post-natal health care for mothers

300. Every health care institution in the country provides pre and post-natal health care for mothers. The quality of care a mother receives in the pre-natal period, during delivery and post-natal period has implications not only on the survival and well-being of the mother, but also of the newly born.

301. The proportion of births attended by skilled personnel increased from 72.2 per cent in 1999 to 79.7 per cent in 2005–06, whilst antenatal care coverage increased from 81.1 per cent in 1999 to 94.5 per cent in 2005–06.

302. The proportion of pregnant women receiving iron supplementation declined from 59.7 per cent (1999) to 42.9 per cent in 2005–06.<sup>63</sup>

303. The Ministry of Health and Child Welfare, UNICEF, UNFPA and WHO are working within the framework of the recently developed Zimbabwe Maternal and Neonatal Health (MNH) Road Map 2007–2015. The MNH Road Map aims to address the current maternal and neonatal health challenges facing the country. It is a framework for planned activities aimed at significantly improving maternal and newborn health services at institutional and programme levels. The Road Map is meant to provide the basis for an increased and long term investment to reduce the current levels of maternal and neonatal mortality and morbidity. It further provides guidance to all strategic partners, stakeholders and programmes for a more coordinated, multi-sectoral and national response to maternal and neonatal mortality and morbidity. It also focuses on improved health service delivery at all levels: from highly specialized tertiary hospitals to community based services.

304. The MNH Road Map builds on the agreements and objectives of various international conferences and summits in response to the observed shortcomings in the health of specific populations and health systems across the world. These include the Safe Motherhood Initiative (1987), the International Conference on Population and Development Programme of Action (1994) and the Millennium Summit (2000). In order to comply with the internationally set aims following these conventions, in particular the Millennium Development Goals, the Road Map was created to prioritise and scale up evidence-based, up-to-date and cost effective strategies and activities that can reduce maternal and neonatal morbidity and mortality. In Zimbabwe, MDGs 4 (to reduce Under Five Mortality), 5 (to improve Maternal Health), and 6 (to combat HIV and AIDS, Malaria and other diseases), are all given high priority. Through the recognition that technical and financial resource constraints present a serious challenge to meeting the health related MDGs and targets, the Road Map is designed as a basis to mobilize sufficient resources for MNH services. In this regard, the Road Map will be supplemented by annual costed work plans, which, besides including the utilisation of available national resources, will identify gaps and needs for further funding.

## **6. Awareness raising on child health, nutrition, breastfeeding, hygiene, environmental sanitation and prevention of accidents**

305. The Government runs and supports baby friendly initiatives to encourage exclusive breast-feeding. Zimbabwe also commemorates the Breastfeeding Week held in August every year. The ZDHS shows that only 22.2 per cent of babies are exclusively breastfed throughout the first six months of their lives.<sup>64</sup> A lot of publicity is done through the public media encouraging mothers to breastfeed their children. Every district hospital has done self assessment and trained its staff on Baby Friendly Hospital Initiative. So far 26 hospitals have been certified baby friendly. Zimbabwe has adopted the global strategy for Infant and Young Child Feeding and training of its hospital staff and communities on infant feeding in the context of HIV and AIDS.

306. Zimbabwe started implementation of the Integrated Management of Childhood Illness Strategy in 2000. Training of health workers and implementation of the community component has been carried out in districts and to date 24 districts have trained their health

<sup>63</sup> ZDHS 1988, 1999, 2005/6.

<sup>64</sup> Zimbabwe Demographic and Health Survey 2005-2006, Central Statistics Office, March 2007.

workers on childhood illness case management. In addition, 8 of these districts also implement the community component that focuses mainly on promotion of key child caring practises.

307. As regards sanitation, an average 63.3 per cent (Urban 94.3 per cent and Rural 58.5 per cent) of households had improved but not shared sanitation facilities in 2007. Meanwhile, 94.9 per cent of urban households had an access to improved water sources, but in rural areas, the proportion goes down to 70 per cent.<sup>65</sup>

**7. Prevalence of HIV and AIDS, including information dissemination and education on HIV and AIDS**

308. The Ministry of Education, Sport and Culture has produced a syllabus on HIV and AIDS for use in schools. Different syllabi have been tailor made to suit children from Grade 4 to Advanced Level.

309. Most child health programmes have a health education/promotion component, and there is a budget set aside for health education/promotion within the Ministry of Health and Child Welfare budget. Because of the integrated nature of most Ministry of Health and Child Welfare activities, this budget caters for all health education/promotion activities in all programmes in the Ministry.

**8. Abolition of traditional practices harmful to children (art. 24, para. 3)**

310. Refer to Paragraphs 37-40.

**9. Promotion of international cooperation**

311. Zimbabwe receives international assistance in the implementation of health programmes such as the Orphans and Vulnerable Children programme, which is funded by the Department for International Development of the United Kingdom and the United States Agency for International Development. The World Health Organisation provides assistance in the general provision of health care. UNFPA funds family planning and reproductive health programmes. UNAIDS provides assistance for AIDS programmes and UNICEF supports a wide range of programmes aimed at promoting the rights of the child. Donor funds for Non-Governmental Organisations are accessed directly through agreements between the two parties concerned.

**C. Social security, childcare services and facilities (arts. 26 and 18, para. 3)**

312. In order to ensure social security and the availability of childcare services, the Government has put in place strategic interventions including poverty assessment studies, social policy development, reform strategies in such areas as national health insurance and disaster response.

313. However, health outcomes and service delivery are being undermined by the drop in real per capita public spending on health due to the inadequacy of the national financial resources. The concept of poverty alleviation developed through the Poverty Alleviation Action Plan in 1994 materialized into an implementable policy in 1997. This programme was designed to arrest the increase in poverty in urban and rural areas. To enable the majority to access health services, the Government introduced a fee waiver system as part of the 1995 Poverty Alleviation Action Plan.

<sup>65</sup> Zimbabwe National Nutrition and Food Security Assessment, October 2007.



314. The National Social Security Authority provides national social security. Some of the strategies the Authority implements include:

- The National Social Protection Strategy: This provides a coherent national strategic direction for Zimbabwe's social protection programmes and a framework to manage socio-economic risks that prevent the increase in the number of families living below the poverty datum line. This policy was put in place in response to the concerns raised by the Committee under Item 15;
- Enhanced Social Policy Programme: Government established the National Social Security Programme which is aimed at alleviating irreversible losses to human and capital resources in the areas of education, health and security to protect human development and provide a co-ordinated "social safety net" to vulnerable groups, especially children and women.

### **1. Legislative measures to implement the right to social security**

315. This issue is fully discussed under the State's support for parental responsibility. Refer to section V B above.

### **2. Right to benefit from child-care services and facilities vis-à-vis children of working parents**

316. In order to promote Early Childhood Development (ECD), the Government has put in place a policy to the effect that every primary school should have childcare centres for children aged 4 to 5 years. In 2005, the concept of preschool popularly known in Zimbabwe as the (zero grade), was introduced in the educational system as a compulsory component of primary education. According to Education Management Information System (2004), Early Childhood Education Care, which is the proportion of grade ones who have pre-school background, has increased from 55 per cent in 2002 to 64 per cent in 2006. Urban areas have a higher proportion of Grade One pupils (67 per cent) than rural areas (63 per cent).

317. The number of ECD "B" centers (zero grade) attached to Primary Schools increased to 7,235 in 2007 compared to 6,570 in 2006, resulting in 77 per cent of primary schools having ECD B. The impact has manifested itself in that the programme has received tremendous parental support to the extent that virtually every Primary School has an ECD "B" center attached to it. Further, an increased number of children are ready for formal learning and this has led to a reduced drop out rate at grade 1 and 2 levels. Workshops have been conducted as continuous education to equip trainers with knowledge and skills on early child development education. Due to limited financial resources, it is not possible to pay and disburse allowances to all ECD centres, teachers and supervisors. A large number of registered ECD Centres are funded through parental support.<sup>66</sup>

### **3. Progress achieved and difficulties encountered in implementing the right to social security**

318. Due to the current economic challenges, the pension funds are proving to be inadequate. Hyperinflation has rendered the monthly payouts inadequate.

<sup>66</sup> Annual Report of the Secretary for Education, Sport and Culture, 2006 and 2007.

## **D. Standard of living (art. 27, paras. 1–3)**

### **1. Measures taken to recognise and ensure an adequate standard of living**

319. Recognition of an adequate standard of living is discussed under parental responsibilities. Refer to section V B above.

### **2. Financial and other forms of assistance to parents**

320. As discussed under parental responsibilities, parents or children in need may apply for social security. Other measures recently taken by the Government include supplementary feeding, where children in schools and designated centers are provided with at least one balanced meal a day.

### **3. Measures taken as a follow-up to the United Nations Habitat II Declaration and Plan of Action**

321. Since the United Nations Habitat II Declaration and Plan of Action, the Government adopted a policy to address housing challenges affecting the vulnerable members of society such as the disabled, destitute and orphans. In implementing the National Housing Policy, the Government has adopted two strategies:

- Disbursements of funds to local authorities at a nominal interest rate of 15 per cent for housing. The economic problems currently affecting the country are slowing down the implementation of the National Housing Policy;
- Targeted subsidies whereby the low-income members of society are allowed to acquire housing based on one's income, with the Government meeting the remainder of the cost. The policy has not been implemented due to limited financial resources.

322. The Government has also embarked on a programme for affordable decent housing code named Operation Garikai /Hlalani Kuhle<sup>67</sup> which is currently in its second phase. The challenge is to provide water and sewerage reticulation facilities in these areas. Operation Garikai/Hlalani Kuhle is a follow up of the Operation Murambatsvina (Restore Order), 2005 and its main purpose is to address the accommodation plight of the disadvantaged low income earners. Priority in this programme is given to families affected by "Operation Restore Order". The majority of persons affected during Murambatsvina were assisted by the Government to relocate to their communal homes whilst others were resettled under the resettlement programme. Those of foreign origin who had no rural homes to go to and those who had gainful employment in urban areas, were allocated houses and stands under Operation Garikai/Hlalani Kuhle.

323. In phase I of Operation Garikai/Hlalani Kuhle, 4,205 beneficiaries were allocated completed houses, whilst 3,273 were given houses at various stages of completion to complete on their own. Under phase II, which is the Aided Self Help, the beneficiaries have constituted themselves into groups (cooperatives) for servicing of their stands and construction of their houses with technical advice from local authorities, 92,276 people have benefited from this scheme. The total of beneficiaries under Operation Garikai/Hlalani Kuhle is standing at 99,754 people as at December 2007.

324. To curb corruption in the allocation of stands and housing units, the Ministry of Local Government, Public Works and Urban Development has created Allocation Committees, which identify beneficiaries of Operation Garikai/Hlalani Kuhle guided by the Allocation Policy. The policy requires among other things, the establishment of Provincial

<sup>67</sup> Garikai/Hlalani Kuhle refers to proper and coordinated settlements.

Allocation Committees that are answerable to the relevant Provincial Governors. The Committees are responsible for any allocations that do not meet the allocation criteria as given in the Allocation Policy.

## **VII. Education, leisure and cultural activities (arts. 28, 29 and 31)**

### **A. Education, including vocational training and guidance (art. 28)**

#### **1. Free and compulsory primary education**

325. The Committee raised concern on the none-provision of free and compulsory primary education in Zimbabwe under (Item 19). The Committee's concern was that education "is neither free nor compulsory" in Zimbabwe. Government's objective to make primary education free was carried through for a period of approximately ten (10) years after independence. This could not be sustained due to inadequate resources, as well as compliance with the Economic Structural Adjustment Programme undertaken in 1992. The Social Dimension Fund was then established to provide a safety net for the vulnerable children. The Education Act [Chapter 25:04] of 2004 was also amended in 2006 to provide that no child shall be refused admission to any school and that primary education for every child shall be compulsory. The amendment further provides that tuition fees shall be maintained at the lowest possible level at the same time maintaining the high standards of education.

326. Primary school enrolments have remained fairly stable over the years, increasing marginally by 0.3 per cent between 2000 and 2006. However, there is need to monitor the effect of adverse macro economic environment on education. As from 2002 there has been a steady decline in enrolments from 2,480,086 in 2002 to 2,445,516 in 2006, representing a 1.4 per cent decline. Girls constituted 49.4 per cent of the enrolment in primary schools in 2006, even though they constituted about 50.2 of the primary school going age population. Secondary school enrolments grew from 66,215 in 1979 to 831,487 in 2006, with 774,921 in the Ordinary ("O" level) cycle and 56,566 in Advanced ("A") level cycle. There was an increase of (106 per cent), in enrolments for "A" levels between 2000 and 2006. Girls constituted 49 per cent of all the Form 1 to Form 4 pupils and 38 per cent of the Form 5 and Form 6 ones. Zimbabwe with a net enrolment of 97 per cent at primary level has achieved universal primary education as required by the declarations made on the Millennium Development Goal and the World Fit For Children. It has also achieved gender parity at this level.

327. However, the recent slight declining trend of the net enrolment ratio at primary school level between 2002 and 2006 needs to be arrested if the situation of universal primary education is to be sustained.

328. At the secondary school level (Form 1 to 4), however, the net enrolment ratio was very low at 46 per cent in 2006. The Form I to 4 net enrolment ratio has been falling since 2000. The net enrolment ratios for girls and boys were 47 per cent and 45 per cent respectively in 2006. Contrary to the situation in earlier years 2000–2004 where there was gender parity in the net enrolment ratio, the situation has changed to be in favour of girls since 2005.<sup>68</sup>

<sup>68</sup> Historical analysis and data from Educational Management Information System, 2006 (Draft Report).

329. Pupils who had been displaced as a result of the operation Garikai/Hlalani Kuhle have been enrolled in schools, in nearby urban areas. Those that were recently resettled under the Land Reform Programme are being catered for the satellite schools.

## 2. Lack of teachers and learning facilities in rural areas and commercial farms

330. In order to address the Committee's concern regarding the "lack of learning and teaching facilities as well as the shortage of trained teachers in rural areas and, in particular, on commercial farms", the Government is deploying trained teachers in remote areas of the country. The Ministry of Education, Sport and Culture employed 65,098 primary and 34,992 secondary school teachers in 2006, with 97 per cent and 92 per cent having undergone training for primary and secondary school respectively.

331. The proportion of female teachers remains higher at the primary school level (53 per cent) than at the secondary school level (41 per cent) of education. The primary school pupil teacher ratio of 38:1 although below the Ministry of Education, Sport and Culture benchmark of 40:1 remains higher than the international MDG target of 28:1. The extremely high pupil teacher ratios in the remote districts of Zimbabwe such as Binga with a pupil trained teacher ratio of about 65:1 and 66:1 in primary and secondary schools, respectively, remain a major concern.

332. The challenge is the need to create a conducive socio-economic environment in terms of remuneration, housing, and communication in order to attract teachers to these areas.<sup>69</sup>

333. Table 5 below indicates the number of teachers between 1997 and 2004.

Table 5  
Number of Primary Teachers 1997–2006

<i>Year</i>	<i>Trained</i>	<i>Untrained</i>	<i>Total</i>	<i>Trained %</i>	<i>Untrained%</i>
1997	49,815	14,706	64,521	77.21	22.79
1998	53,077	13,425	66,502	79.81	20.19
1999	55,342	4,631	59,973	92.28	7.72
2000	58,730	7,710	66,440	88.40	11.60
2001	58,396	5,583	63,979	91.27	8.72
2002	56,615	5,592	62,207	91.01	8.98
2003	55,132	6,120	61,252	90.00	9.99
2004	57,162	6,057	63,219	90.41	9.58
2005	60,630	4,955	65,585	92.44	7.56
2006	62,914	2,184	65,098	96.65	3.35

*Source:* Ministry of Education Sports and Culture, 2007.

334. During the period under review, the table shows that the number of untrained teachers being deployed went down between 1997 and 2004.

335. Table 6 below contains statistics reflecting the situation in secondary schools for the same period.

<sup>69</sup> Education Management Information System, 2006 Draft Report.

Table 6  
Number of Secondary School Teachers Between 1997–2006

<i>Year</i>	<i>Trained</i>	<i>Untrained</i>	<i>Total</i>	<i>Trained %</i>	<i>Untrained %</i>
1997	25,547	3,891	29,438	86.78	13.22
1998	28,817	3,305	32,122	89.71	10.29
1999	28,825	1,747	30,572	94.29	5.71
2000	31,635	2,528	34,163	92.60	7.40
2001	27,957	3,222	31,179	89.66	10.33
2002	26,796	4,334	31,130	86.07	13.92
2003	24,295	4,578	28,873	84.14	15.85
2004	27,675	5,934	33,609	82.34	17.65
2005	32,222	3,099	35,321	91.23	8.77
2006	32,165	2,827	34,992	91.92	8.08

*Source:* Ministry of Education, Sport and Culture.

336. The Government is upgrading and raising the standards of public schools by deploying more trained teachers, providing more teaching facilities, and teaching materials and grants. In addition, the Government has done away with the monopoly of providing University education, and, as a result, many universities have been opened either in partnership with the Government or as independent institutions. A total of 12 universities are operational at present, 8 are being run by the State and 4 are private universities. In addition, there are 14 teacher-training colleges. Eleven of the colleges are training teachers for the primary level and three for the secondary level. There are 9 polytechnic colleges conducting a variety of training programmes at tertiary level.

### Challenges

337. The economic challenges Zimbabwe is facing place a strain on the education sector as it has limited resources at its disposal. Morale among teachers is generally very low due to the following factors:

- Low salaries, which have been eroded by the high inflationary environment;
- Poor staff accommodation, especially in rural areas;
- Increased work loads, as a result of shortage of staff.

338. As a result of these factors, there has been brain drain, as qualified personnel migrate to greener pastures. Cases of teachers absconding from duty increased as they try to cope with the ever increasing cost of living which cannot be matched with their salaries. The challenge is to continuously address teacher remuneration and working conditions.

### 3. Increase in rate of drop-outs

339. In 2006, a total of 30,359 primary school pupils of whom 48 per cent were female, dropped out of school. There was no major difference between the percentages of pupils dropping out of school for both primary and secondary school with an average dropout rates for Grade 1 to 6 and Form 1 to 3, in 2003 of 9 per cent for both levels. Primary school dropouts generally increased between 2000 and 2005. The same pattern prevailed for Form 1 to 3. Since 2000 Grade ones had the highest dropout rates, followed by Grade 6. The drop-out rates for girls are generally higher than those for boys at various levels.

340. There are various reasons why children in primary schools are dropping out of school. Enrolments tend to fall in years of bad economic performance and erratic weather patterns such as those that occurred in 2002 and 2003. In 2006, 29 per cent of the pupils dropped out of school due to financial reasons (30 per cent for girls and 28 per cent for boys), 7 per cent were ill (7 per cent of both girls and boys), 6 per cent died (7 per cent of boys and 6 per cent girls), 1 per cent were married (2 per cent for girls and 0.2 per cent for boys), 0.3 per cent for pregnancy related reasons (0.6 per cent for girls and 0.1 per cent for boys) and 0.4 per cent were expelled (0.4 per cent for girls and 0.3 per cent for boys).<sup>70</sup>

341. The Government provides financial assistance to children who are struggling to attend school, in particular, orphans and vulnerable children through the Basic Education Assistance Module (BEAM). This module was established in 2001 and is one of the social protection measures provided by the Government of Zimbabwe, under the Enhanced Social Protection Programme. The primary objective of BEAM is “to reduce the number of children dropping out of school, and reach out to children who have never been to school due to economic hardships. Its main development objective is to prevent irreversible welfare losses for poor households who resort to withdrawing children from school in response to increasing poverty”.<sup>71</sup>

342. The specific objectives of BEAM include:

- Payment of tuition fees;
- Examination fees;
- Building fund for classrooms;
- School levies

343. The guiding principles for BEAM include:

- Promoting Community ownership through awareness programmes;
- Community based targeting through Community Selection Committees;
- Ensuring gender equity – At least 50 per cent of assisted students at secondary level should be girls;
- Reaching children with special needs (children with disabilities).

344. Nominations for BEAM are done annually to facilitate review circumstances of children. BEAM is a national programme operating in all districts. It has 100 per cent government funding through the National Budget and National AIDS Council Fund. In 2005, the programme reached out to 969,000 children (see table 7 below), representing 27.2 per cent of the enrolled children. This has made BEAM the largest education assistance programme in the country.<sup>72</sup>

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<sup>70</sup> Education Management Information System, 2006.

<sup>71</sup> Basic Education Assistance Module (BEAM) Review: Options for scaling up OVC education support. UNICEF, March 2008.

<sup>72</sup> Potential candidates for case studies, Zimbabwe, United Nations & Partners Alliance on OVC. 29<sup>th</sup>–31<sup>st</sup> August, 2006.

## Beam Allocations

Table 7  
Children Benefiting from BEAM<sup>73</sup>

<i>Year</i>	<i>Total Enrolment</i>	<i>Total Assisted</i>	<i>per cent of Total</i>
2002	3,335,995	865,761	25.9
2003	3,315,604	588,817	17.7
2004	3,316,879	310,363	9.3
2005	3,317,699	969,962	29.9
2006	3,277,008	347,525	10.6
2007	**	74,997	**
<b>Total</b>	<b>16,536,185</b>	<b>3,157,425</b>	<b>19.0</b>

*Source:* Ministry of Public Service, Labour and Social Welfare: Social Services Department, 2007.

\*\* Figures not available at the time of undertaking the study.

## Challenges

345. BEAM was conceived in a relatively stable macro-economic environment but the situation has since changed. Inflation has contributed to the erosion of benefits accruing from BEAM. Delays in the disbursement of funds associated with lack of funds and understaffing of the Programme Management Unit has negatively affected Programme performance. In light of these challenges, the Ministry of Public Service, Labour and Social Welfare has developed a proposal for raising additional support for BEAM within the framework of the Programme of Support for OVC.

346. A study was commissioned by the Ministry of Public Service, Labour and Social Welfare, to identify viable options for supporting the Programme.<sup>74</sup> The study sought to: review the BEAM disbursement modality; the current beneficiary selection process of BEAM and to propose strategies for strengthening the system where appropriate. Further, the study sought to assess the relevance and appropriateness of BEAM's existing Monitoring and Evaluation system, with a focus on the Management Information System.

347. The study established that the disbursement of BEAM funds is facing operational challenges. The greatest hurdle was the delay in the disbursement of funds. The study established that school authorities and their Community Selection Committees acknowledged the importance of the BEAM programme, but delayed payments were causing frustration among them, with some of them starting to lose interest in the programme. Two main factors explained the delays. Firstly, the Programme Management Unit is facing staff shortages hence there were delays in printing out the various BEAM forms and distributing them to schools. In turn, there were further delays by the schools in returning the completed forms hence processing of payments was not being done on time.

348. Secondly there were delays in the release of funds by Treasury and this only meant further delays for the release of the payments to the schools. A major outcome of the delayed payments has been erosion of BEAM's contributions by inflation to the point where the Programme is risking being seen as irrelevant. Further, the study established that many schools were not making follow-ups on their applications for BEAM funds yet in

<sup>73</sup> Basic Education Assistance Module (BEAM) Review: Options for scaling up OVC education support. UNICEF, March 2008.

<sup>74</sup> Ibid.

some cases schools would have submitted incomplete documents. Lack of communication between schools and the Programme Management Unit meant that in situations where incomplete documents would have been submitted, there was no prompt action to rectify the problem, and hence some schools failed to receive their payments or that the payments were delayed. The lack of working communication infrastructure in rural schools meant that telephone based communication was not reliable. Schools in the rural areas were faced with more challenges in terms of accessing their BEAM funds.

349. Generally, schools in the study sites had accounts with commercial banks, which were located far away from the schools. Given the delays in disbursement of funds, in some cases the cost of traveling to and from the place where the commercial bank was located was greater than the contribution by BEAM. The study has made a number of recommendations for implementation to benefit children in need. Apart from BEAM, civil society organisations and the private sector also assist children in difficult circumstance by providing tuition fees and levies, as depicted in table 8 below.

Table 8

<i>Organisation</i>	<i>Level</i>	<i>Number of Beneficiaries Supported in 2006</i>		
		<i>Male</i>	<i>Female</i>	<i>Total</i>
BEAM	Prim & Sec	175,262	175,442	350,704
Government Bursary	Form 1–4	281	274	555
Government Bursary	Form 5	85	31	116
CAMFED	Form I–4	-	5,500	5,500
Capernaum Trust	Form 1–4	14,000	12,000	26,000
Dzikwa Trust	Grade 1–7/Form 1–4	70	90	160
Harambe Holdings	Form 1–4	45	55	100
ZIMNAT	Grade 7	4	6	10
<b>Total</b>		<b>189,747</b>	<b>193,398</b>	<b>383,145</b>

*Source:* Ministry of Education, Sport and Culture, 2007.

#### **4. Growing disparity within the education sector due to the parallel system of public and private schools**

350. In response to the Committee's concerns, Government has made an attempt to reduce the growing disparity in the parallel education system by regulating the fees charged by all schools. The Education Amendment Act [Chapter 25:04] of 2006 and Statutory Instrument 159/07 [Temporary Presidential Powers on Pricing and Monitoring of Fees] addresses the issue of the disparities in fees and levies charged by public and private schools. However, a comprehensive approach to the problem still needs to be developed.

351. On a general basis and in compliance with the Constitution, all educational institutions in Zimbabwe are open to people of all races. However, it has been noted that due to high fees, few sectors of the society have access to trust<sup>75</sup> schools. This, as was stated by the Committee on the Elimination of Racial Discrimination in its comments on Zimbabwe's last report considered in 2000, creates racial segregation.

352. Statistics indicating racial disparities in schools prior to Government interventions, for both pupils and teachers are not available. Although the disparity gap, as reflected in

<sup>75</sup> These are elitist schools.



table 9 below, seems to be reducing in some non-Government schools, the ratio still favours the white population while the opposite is true in Government schools.

Table 9

**Black/white ratio in schools**

	<i>Black/White Pupil Ratio in Schools</i>			<i>Black/White Teacher Ratio in Schools</i>			
	<i>Black</i>	<i>White</i>	<i>% of Black Pupils</i>	<i>Black</i>	<i>White</i>	<i>% of Black Teachers</i>	
School 1	127	224	37	School 1	3	16	16
School 2	365	156	70	School 2	19	24	44
School 3	369	533	41	School 3	20	25	44

*Source:* Ministry of Education, Sport and Culture, 2007.

353. The Education Act [Chapter 25:04] provides that the three main languages of Zimbabwe, namely Shona, Ndebele and English be taught on an equal time basis in all schools up to Form 2 level. This is designed to facilitate communication among people in all parts of the country and also to promote national unity. At the same time, the Act provides for the teaching of local languages in areas where they are spoken thereby promoting culture. The Act also provides for the teaching of foreign languages such as French and Portuguese to enable the country to participate fully in technological developments.

**Challenges**

354. The Government is, however, still facing resistance from Trust schools, in its endeavours to reduce the racial disparities. It is, for instance, a policy of the Ministry of Education, Sport and Culture to enhance consultations between school authorities and parents prior to any review of school levies. However, some well to do parents tend to influence the fee structure through manipulative attitudes during such meetings. In other cases some Trust schools may increase fees without government approval, leaving parents with the option of either paying or removing their children from such schools.

355. Consultations with parents should ideally be followed by the presentation of the proposed level of fees to the Ministry of Education, Sport and Culture for consideration. Where the Ministry is of the view that the proposed fees would be too high, it prescribes a lower figure. Trust schools have, however, challenged the Government in a court of law, where the court decided in their favour, thereby allowing them to increase fees.

**Responses**

356. In order to address the resistance from Trust schools, the Government has amended the Education Act [Chapter 25:04], to provide for the establishment of school/parents assemblies at each school. The Assemblies will in turn elect School Development Committees, whose mandate will be to manage the financial affairs of respective schools, including the raising of fees and/or levies.

357. Under the Education Act [Chapter 25:04], every child in Zimbabwe has the right to formal education and parents are obliged to send their children to school, as it is the intention of the Government that primary education is compulsory. To this end the Act provides that school fees be maintained at the lowest possible levels.

358. BEAM which is discussed under section VII, is an improvement on the previous system, as poor parents who had to prove their poverty status to the Social Welfare Department, are now identified by the local community and the vetting is done by the

Community Selection Committee made up of selected members from the school's catchments areas in consultation with the Head and the Social Dimensions Assistance Association at the local level.

359. Government has introduced a zoning system, which is aimed at confining the enrolment of children into schools nearest to their residential areas, as this is considered to be in the best interest of the child who will not be subjected to long distances of traveling.

360. The Ministry of Education, Sport and Culture has taken measures to eliminate gender disparities by helping the girl child to access education. As a result of some of the policies that have been made since 1997, the rate of enrolment of the Girl Child has improved both in Primary and Secondary education, as indicated in tables 10 and 11 below.

### Enrolment statistics and figures

Table 10  
Primary School Enrolment (1997–2006)

<i>Year</i>	<i>Male</i>	<i>Female</i>	<i>Total</i>	<i>% Male</i>	<i>% Female</i>	<i>Parity Index</i>	<i>Growth Rate</i>
1997	1,259,888	1,231,473	2,491,361	50.57	49.43	0.98	**
1998	1,265,177	1,223,762	2,488,939	50.83	49.17	0.97	-1.10
1999	1,251,533	1,208,790	2,460,323	50.87	49.13	0.97	-1.15
2000	1,251,921	1,208,748	2,460,669	50.88	49.12	0.97	0.01
2001	1,252,997	1,208,686	2,461,683	50.90	49.10	0.96	0.04
2002	1,259,888	1,220,206	2,480,094	50.80	49.20	0.97	0.75
2003	1,248,654	1,220,018	2,462,829	50.70	49.30	0.97	-0.70
2004	1,244,664	1,220,018	2,464,682	50.50	49.50	0.98	0.08
2005	1,245,738	1,216,194	2,461,932	50.60	49.40	0.98	-0.11
2006	1,239,879	1,205,641	2,445,520	50.70	49.30	0.97	-0.67

*Source:* Central Statistical Office, 2008.

\*\* Figures not available.

Table 11  
Secondary School Enrolment (1997–2006)

<i>Year</i>	<i>Male</i>	<i>Female</i>	<i>Total</i>	<i>% Male</i>	<i>% Female</i>	<i>Parity Index</i>	<i>Growth Rate</i>
1997	421,039	367,565	788,604	53.39	46.61	0.87	**
1998	442,226	387,751	829,977	53.28	46.72	0.88	5.25
1999	443,067	391,813	834,880	53.07	46.93	0.88	0.59
2000	448,981	395,202	844,183	53.19	46.81	0.88	1.11
2001	455,442	403,883	859,325	52.99	47.01	0.89	1.79
2002	453,522	402,180	855,702	53.19	46.81	0.89	-0.42
2003	446,753	405,829	852,582	52.40	47.60	0.91	-0.36
2004	446,409	405,517	851,926	52.40	47.60	0.91	-0.08
2005	444,028	411,518	855,546	51.90	48.10	0.93	0.42
2006	431,542	399,945	831,487	51.90	48.10	0.93	-2.81

*Source:* Central Statistical Office, 2008.

\*\* Figures not available.

361. Zimbabwe's education has improved in both scope and administration in the sense that schools have now been allowed to retain a percentage of fees for use in the development of the school. Despite the socio-economic hardships, which Zimbabwe is facing, the quality of education is still high.

362. At the time of submission of the Initial Report, pregnant girls were being expelled from schools. In 1999, under Circular Minute P.35, the Government changed the policy and allowed the girls to go back into the formal education system, after delivery. This is accompanied by counselling of the girl and the responsible boy, if he too is a schoolboy, as well as their parents. Both are sent on leave and readmitted after delivery of the baby.

363. In a bid to improve access to education, the Government has established non-formal education programmes such as part-time continuing education courses. The Government also encourages the establishment of private and independent colleges. These offer day and evening classes, which school dropouts, have a choice to attend.

364. The Government has initiated a number of programmes to enhance the quality of education available to children such as the rural electrification programme. This programme has been extended to electrify a total of 4,797 rural institutions as at 31 March 2006. This included schools and to date 36.5 per cent of primary schools and 69.2 per cent of secondary schools are electrified. In addition, 67.5 per cent of rural health centres are electrified. In keeping with one of its major objectives to promote productive use of electricity for economic gain, the scheme has ventured into agro-processing activities in partnership with rural schools and the communities around the schools. A pilot rural schools' milling project was launched in 2004. Four grinding mills were established at selected schools. All the schools managed to pay for the grinding mills in less than a year. One school obtained a Grain Marketing Board milling licence and has an allocation of up to 30 tons of maize per week. From the proceeds of the project the school has managed to renovate two classrooms, build one teacher's house and subsidise fees by 50 per cent during the 3rd term and 1st term of 2005 and 2006 respectively.

365. The Government of Zimbabwe is keen to see the Rural Electrification Programme succeed, as manifested by its support through the provision of sovereign guarantees for external facilities. The Government expects the Programme to complement the land reform programme, thereby contributing positively towards economic growth of the country. The political leadership has therefore been responsive to initiatives to keep the Rural Electrification Programme alive. However the government has to be content with external pressures from certain international institutions and organisations that are against the model of the Rural Electrification Programme in Zimbabwe, which is subsidised and funded through a levy.

## 5. Administrative measures

### *Mathematics and science camps for girls*

366. The Ministry of Education Sport and Culture has also paid special focus on the education of girls to empower them. Since 2007, the Ministry has regularly mounted holiday Camps for girls in all Provinces where the girls are encouraged to study science and mathematics. The objective of the camps is to promote scientific education among girls and encourage girls to be more comfortable with science and maths subjects so that their options at tertiary education may be increased yearly.

**Challenge**

367. Zimbabwe continues to face many economic challenges. The challenges have continued to impact negatively on the rural electrification programme. Factors include a high inflation rate and inadequate foreign currency to import equipment for the programme.

**B. Aims of education (art. 29)****1. Teacher training and school curricula vis-à-vis article 29**

368. Refer to paragraphs 330–338 above.

**2. Liberty of individuals to establish and direct educational institutions**

369. Individuals are at liberty to apply to the Ministry of Education Sport and Culture to establish and direct educational institutions, after approval from the Ministry of Education, Sports and Culture. In 2006 the majority of primary schools were run by District Councils (77 per cent) followed by Government 6 per cent, Missions/Church schools 5 per cent, Farm schools 5 per cent, Private Schools 3 per cent, City Council schools 2 per cent and Mine Schools 1 per cent and lastly Schools run by Town Boards 0.88 per cent.

**Budgetary allocation breakdown for 1996/97 to 2006/07**

370. Government allocated 22 per cent of the total national budget in both the 1996–1997 and the 1998–1999 budgets to the education sector. The revised Budget for 2007 for the Ministry of Education was at 15 per cent of the national budget.

**VIII. Special protection measures (arts. 22; 38; 39; 40; 37 (b)–(d); 32–36)****A. Children in situations of emergency****1. Refugee children (art. 22)**

371. Zimbabwe has incorporated the provisions of both the 1951 Convention relating to the Status of Refugees and the 1969 Convention Governing the Specific Aspects of Refugees Problems in Africa, into the Zimbabwe Refugees Act [Chapter 4:03]. Refugee children are therefore, recognized under the Refugees Act [Chapter 4:03]. The Ministry of Public Service, Labour and Social Welfare runs the status determination process done by the Zimbabwe Refugee Committee.<sup>76</sup> The Committee is guided by Article 22 of the Convention on the Rights of the Child in the determination of status for refugee children. Unaccompanied minors are automatically granted refugee status whilst accompanied children are considered together with their parents.

372. The Government works with UNHCR to provide assistance to refugees. Refugee children are integrated into local schools for their education. In 2004, 350 children attended pre-school, 282 primary school, 91 secondary school and 25 in vocational training. Health is also made available through the local clinics and Government hospitals. World Vision International provides health care in refugee camps. Other NGOs involved are Southern Alliance for Indigenous Resources and Jesuit Relief Services. The ICRC helps with the

<sup>76</sup> The committee comprising of the Ministry of Public Service, Labour and Social Welfare, Ministry of Foreign Affairs, Ministry of Home Affairs and UNHCR.

tracing of parents or other relatives of unaccompanied and separated children. Where the parents or relatives are not identified the children are either fostered within the refugee families or sent to institutions of care. The process of placing these children in institutions is the same with that of locals as it is administered by the Ministry of Public Service, Labour and Social Welfare which implements the refugee programme.

373. The Ministry of Public Service, Labour and Social Welfare reports that currently, there are 2,184 refugee children in Zimbabwe. Of these 1,234 are male and 950 female. 1,087 of these children are attending school.

## **2. Children in armed conflicts (art. 38), including physical and psychological recovery and social reintegration (art. 39)**

374. In terms of the National Service Act [Chapter 11:08] persons can volunteer to join the army only at the age of 18 years. Where an emergency arises, the law obliges the government to recruit persons of 18 years and above for national service. The minimum age of participation in hostilities is therefore 18 years. Further by acceding to the Geneva Convention, Zimbabwe protects her children from early recruitment, as she is also obliged by her international obligations.

## **3. Children involved with the system of administrative justice**

### **Administration of juvenile justice (Art. 40)**

375. Under paragraph 21, in part one, the Committee raised concerns on the present system of juvenile justice delivery, more specifically the lack of a clear prohibition of capital punishment which prohibits the imposition of capital punishment on children who are in conflict with the law.

376. Children in Zimbabwe are not sentenced to capital punishment. Section 338 (c) of the Criminal Procedure and Evidence Act [Chapter 9:07] prohibits the imposition of capital punishment on children in conflict with the law.

377. Juvenile offenders are tried in camera to protect their identity. The child's name is not published in order to protect the child's dignity and privacy. Children are not incarcerated but are released into the custody of their parents or guardians and the sentence of whipping is usually effective in deterring the repeat of the crimes. The age of criminal responsibility is 7 years. Legal aid is provided through the Legal Aid Act No. 18 of 1996 for all underprivileged people including children in conflict with the law. A Directorate of Legal Aid has been established to assist the poor including children who are in need of legal aid.

### **Children deprived of their liberty (art. 37 (b), (c) and (d))**

378. The Constitutional guarantee to personal liberty also applies to children. As discussed under Juvenile justice, courts often release juvenile offenders into the custody of their parents or legal guardians.

379. Further, the Legal Aid Act, 1996 further provides for the legal representation of all under-privileged persons, including children. The Directorate of Legal Aid started taking on criminal cases, and statistics of children who have accessed the facility are not yet available. Plans are underway to carry out awareness campaigns on the existence of the Directorate.

380. The Government is working on the Pre-trial Diversion Policy for purposes of introducing concrete measures to divert the juvenile offender from the ordinary criminal justice delivery system in preference of rehabilitative measures. The policy formulation

exercise is still in its infancy. In the meantime, as much as possible, children in conflict with the law are counselled and channelled towards community service to avoid incarceration and placement with adult offenders.

#### **Life imprisonment without the possibility of release/ indeterminate sentence**

381. In practice, such a sentence is not imposed on a child below the age of 18 years, although there is no prohibitive legislation to that effect. In terms of the law, Magistrates do not have jurisdiction to impose life imprisonment.

#### **Challenges**

382. Due to the continued brain drain, the Ministry of Public Service, Labour and Social Welfare has suffered a shortage of Probation Officers. This fact coupled with a shortage of resources, has resulted in delays in the production of the court reports on children. Some cases are not being brought to the Probation Officer's attention and so children are taken to court without the Probation Officer.

## **B. Children in situations of exploitation, including physical and psychological recovery and social integration**

### **1. Economic exploitation of children, including child labour (art. 32)**

383. This issue was discussed extensively in part one, paragraph 32.

#### **Awareness campaigns**

384. The Government embarked on a human resources development programme for officers implementing and enforcing the child labour legislation. With the assistance of the International Labour Organization (ILO), a national workshop on International Labour Standards and the ILO Declaration on fundamental Principles and Rights at work (1999) was organised for labour officers in the country. A similar workshop on International Labour Standards was conducted in November 2004 with Labour officers from all provinces. The Government also trained judges, magistrates and assessors on International Labour Standards and the ILO Declaration.

385. In 1999, Zimbabwe participated in the Global March against Child Labour, which was intended to create awareness of the international concern on child labour in Zimbabwe. This was followed by a Child Labour Survey in September 1999. The main objective of the labour force survey was to generate quantitative data on Child Labour and to begin the process of establishing a database containing both quantitative and qualitative information on Child Labour in Zimbabwe. The results indicated that there was evidence of Child Labour in Zimbabwe's Agricultural and Commercial Sectors.

386. The National Child Labour Survey of 2004 revealed that 32 per cent of 5–17 year olds were engaged in some economic activity in the 12 months prior to the survey. Forty one per cent of the children in rural areas were engaged in an economic activity compared to 12 per cent in urban areas.<sup>77</sup>

387. The Government introduced the following policies to deal with the problems of child labour:

- Protection of the working children from Occupational Hazards;

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<sup>77</sup> Zimbabwe National Child Labour Report 2004, Central Statistical Office.

- Rehabilitation of exploited children;
- Intensification of labour inspections;
- Elimination of worst forms of child labour: The Ministry of Public Service, Labour and Social Welfare is working in partnership with IOM, UNICEF, ILO and UNDP to eliminate worst forms of child labour. A national steering committee has been put in place to spearhead the process.

### **Challenges**

388. Due to resource constraints, the Government has approached the International Labour Organization (ILO) and International Programme on the Elimination of Child Labour (IPEC) for technical as well as financial assistance.

## **2. Drug abuse (art. 33)**

389. Legislative and Other Measures to Protect Children from Illicit use of Narcotic Drugs and Psychotropic Substances

390. The use or dealing in dangerous drugs is an offence in Zimbabwe. The Medicines and Allied Substances Act [Chapter 15:03] makes specific reference to children. The sale of drugs to children or persons under the age of 18 is prohibited.

391. In particular, the Children's Act [Chapter 5:06], under Part VIII, specifically prohibits the sale or any form of access of drugs to children. Awareness campaigns by the Zimbabwe Republic Police were conducted and the junior call Programme for pupils is also in place.

## **3. Legislative and other measures to protect children from use of alcohol, tobacco and other substances harmful to their health**

392. The Public Health Act [Chapter 15:09] provides for the education of the public on the harmful effects of tobacco, alcohol, drugs and other intoxicating substances on their health. The Act also requires the inclusion of health warning messages on cigarette packs and during cigarette advertisements.

393. The use or dealing in illicit and dangerous drugs is an offence under the Dangerous Drugs Control Act [Chapter 15:02]. Although the Act does not make specific reference to children, the general prohibition also covers children. In addition, Part VIII of the Children's Act [Chapter 5:06] specifically prohibits the sale of illicit drugs or allowing any form of access to these drugs by children. The Act further prohibits the use of alcohol and tobacco by children; in particular it prohibits the sale or supply of alcohol to children. The Liquor Act [Chapter 14:12] also prohibits the sale or provision, for whatever purpose, of liquor to persons under the age of 18 years. Owners of such outlets are also prohibited from allowing access to persons below 18 years onto their premises during operation times. The only exception to the prohibition to the access to alcohol selling premises applies to children aged between 16 and 18 years who would be undertaking catering training. Drinking alcohol remains illegal even for such children.

394. The Government rehabilitates children living on the streets by placing them in places of safety while being screened. Where possible, the children are reunited with their families, whether nuclear or extended family. Those without families are placed in children's homes run by both the Government and Non Governmental Organisations.

### **Challenges**

395. The problem of substance abuse is widespread among children living on the streets as they have no parental guidance.

396. The Government is facing difficulties in implementing rehabilitation measures against children living in the streets. Attempts to remove the children from the streets and place them in institutions are being made by the Government in collaboration with some NGOs. Some of such children, as already stated, find life on the street more exciting and always run away from the institutions.

#### **4. Sexual exploitation and sexual abuse (art. 34)**

397. The State has taken legislative measures to protect young persons from sexual exploitation and abuse, for both the girl and the boy child. Under Section 8 of the Children's Act [Chapter 5:06], a person who allows children to frequent brothels commits an offence. The Act further protects children from seduction, abduction and prostitution.

398. Provisions of the Domestic Violence Act [Chapter 5:16] and the Criminal Law (Codification and Reform) Act [Chapter 9:23] have already been discussed in this regard.

399. Child victims of sexual abuse do not pay for treatment at clinics, hospitals and rehabilitation centers.

#### **5. Awareness campaigns**

400. Awareness campaigns are held by the Government to educate the public on the use of Victim Friendly Courts and Victim Friendly Units in police stations. The campaigns are carried out by the Coordinator of Victim Friendly Courts in the Ministry of Justice, Legal and Parliamentary Affairs, the police, health sector and social services.

401. The Government and UNICEF in partnership with other stakeholders have embarked on a campaign against child abuse sought to create its "Stand Up and Speak Out" campaign against child abuse. At the onset it sought a partnership with the Ministry of Public Service, Labour and Social Welfare and all Churches in Zimbabwe. The Churches would be fundamental in reaching millions of Zimbabweans. National engagement with the Church in Zimbabwe would come through training and the production of materials for sermons, Sunday School, church groups and bible studies.

402. Launched in February 2007, the information campaign is aimed at raising awareness of all forms of child abuse, the damage caused, how child abuse can be prevented, and importantly where to get help. The campaign seeks to reach more than six million Zimbabweans.

#### **Stand Up and Speak Out Campaign**

403. The Stand Up and Speak Out Information Campaign is another activity within the work being done by the Ministry of Public Service, Labour, and Social Welfare, the Ministry of Women's Affairs, Gender and Community Development, the Ministry of Education, the Ministry of Justice, the United National and partners. It seeks to reinforce the priceless value of all children, their right to care and support, and the fact that childhood must be defended at all costs. The following activities have been undertaken under the campaign:

- Thousands of Church Kits developed and distributed to churches across the country;
- A series of short animated cartoons on the various forms of abuse screened nightly on ZTV;



- Billboards have been erected around the country showing toll free numbers so that children willing to call may call;
- Frequent and informative advertisement on national radio;
- National distribution of a ground-breaking children's book on how to prevent sexual abuse.

#### **6. International cooperation**

404. Government works closely with United Nations Agencies on various projects, as already discussed in this report.

#### **7. Sale, trafficking and abduction (art. 35)**

405. The Criminal Law (Codification and Reform) Act [Chapter 9:23], provides for the protection of children from trafficking. In April, 2006 the Government formed an Inter-ministerial task force on trafficking which aims to criminalise the offence domestically; support national information campaigns and deploy counter-trafficking experts at border points. There is also an ongoing study on child trafficking being conducted by the International Organisation of Migration and UNICEF, which aims at providing a better understanding of the phenomena.

#### **8. Other forms of exploitation (art. 36)**

406. The Children's Act [Chapter 5:06], sanctions the removal of children from any environment where there are allegations of ill-treatment and all forms of exploitation.

#### **9. Children belonging to a minority or indigenous group (art. 30)**

407. There is no specific law in place that deals with the children of minorities. However, there are policies in place, in particular in the education sector that allows primary school children to be taught in their indigenous languages in the first four levels of their education, as minority only applies to tribal groups in Zimbabwe. This promotes the use of indigenous languages.

408. Plans are underway to extend the same policy to the rest of the primary levels of education.

## **IX. Implementation and monitoring of the Convention**

409. The co-ordination and monitoring of the implementation of the provisions of the Convention on the Rights of the Child is done through the Inter ministerial Committee on Human Rights and International Humanitarian Law (IMC). The Committee comprises 20 Government Ministries and Departments and is chaired by the Ministry of Justice, Legal and Parliamentary Affairs. It is mandated to coordinate, monitor and advise Government on all aspects of Human Rights including Children's Rights. The IMC is also responsible for making recommendations to Government for the incorporation of Human Rights Conventions into domestic legislation. The actual implementation of human rights instruments lies with specific Ministries under which human rights thematic areas fall.

410. To this end, the Committee works hand in hand with the Ministry of Health and Child Welfare, which is the key Ministry in child-related issues. Other Ministries involved in children's issues include the Ministry of Education, Sport and Culture, the Ministry of Public Service, Labour and Social Welfare, the Ministry of Home Affairs, Ministry of Women's Affairs, Gender and Community Development and the Ministry of Justice, Legal

and Parliamentary Affairs. All these Ministries are represented on the Inter-Ministerial Committee.

411. Parliament passed a Constitutional Amendment Bill No. 18, in September 2007, which proposed among other things to introduce a Human Rights Commission. The Commission's functions will include monitoring of the implementation of human rights instruments. The Bill has since been signed into law by the President.

412. Minister of Justice administers the constitution under SI 150/06 S34 (d). Of concern to the Committee was the non-extension of investigations by the Ombudsman to members of the defense forces, law-enforcement and correctional services.

413. By virtue of Amendment to the Ombudsman Act by Act No. 4 of 1997, investigations are now extended to the Defence Forces, the Police Force and the Prison Service. The constitutional weakness of confining investigations to public run or controlled institutions, however, still remains.

414. The Human Rights mandate of the Ombudsman will be transferred to the Human Rights Commission referred to in (iv). This has resulted in the functions of the office being confined to the function of Public Protector, hence changing the name to that effect.

## **X. Report writing process**

415. The overall responsibility of the preparation of this First Periodic Report lay with the Inter-Ministerial Committee on Human Rights and International Humanitarian Law. The Committee carried out its mandate of co-ordinating the report's preparation.

416. The Inter-Ministerial Committee on Human Rights and Humanitarian International Law now comprises the following Ministries and Departments:

- The Ministry of Justice, Legal and Parliamentary Affairs;
- The Ministry of Health and Child Welfare;
- The Ministry of Education, Sport and Culture;
- The Ministry of Higher and Tertiary Education;
- The Ministry of Women Affairs, Gender and Community Service;
- The Public Protector;
- The Attorney General's Office (Three Department);
- The President's Office;
- The Ministry of Local Government, Public Works and Urban Development;
- Ministry of Environment and Tourism;
- The Central Statistical Office;
- Ministry of Information and Publicity;
- Ministry of Public Service, Labour and Social Welfare;
- Ministry of Foreign Affairs.

417. The list of NGOs and United Nations agencies who participated in coming up with the Draft Report are as follows:

- World Vision Zimbabwe;

- Child Protection Society;
- Plan International Zimbabwe;
- Farm Community Trust of Zimbabwe;
- Save the Children Norway;
- Streets Ahead;
- UNICEF;
- UNDP;
- UNIFEM;
- National Association of Non-Governmental Organisations;
- Human Rights Trust of Southern Africa;
- Justice for Children Trust;
- Child Participants (One Youth Advisor and One Provincial Coordinator for the Working Children and Youth Organisation, as well as 2 Junior Councilors).

## **XI. Statements by children**

Secretariat

Inter-Ministerial Committee on Human Rights and Humanitarian Law

### **Movement of working children and youth in Zimbabwe**

I am a working child employed in the agricultural sector of the Mashonaland Central Province. I have been working since the year 2000. I worked on during the holidays and over weekends. I feel my rights were violated as I was deprived of rest when sick. My right to light and limited work was also violated.

In 2001 I joined awareness campaigns that aimed at negotiating with employers on light and limited work, and long working hours. By then we were organized as working children and joined the African Movement of working children and Youth (AMWCY). I then attended the second meeting held in Dakar Senegal. I also attended many workshops around Zimbabwe that aimed at advocating for children's rights. In 2003 I attended a regional workshop on working children in South Africa where we shared our experiences with 10 African country delegates from 8 African countries. From there we strongly negotiated with our authorities on our rights as working children.

In 2004 we attended the world movement of working children and youths in Germany where we denounced the policies of ILO which aimed at abolishing child-labour. ILO failed to understand the realities of working children. After the meeting we organized ourselves into Associations and registered ourselves with ENDA Senegal that agreed to fund us.

With organized groups we managed to conduct workshops and seminars around the country on the situations our colleagues in the mining and domestic sectors are facing in the field of work. Today our rights are being recognized though we need to monitor them here and there.

My appreciation goes to the organizers who considered our participation in writing the Convention on the Rights of the Child State Party Report. We are happy that our concerns are going to be addressed to our Republic; to us it is the beginning of the new era that will bring a new ever-smiling Zimbabwean child in the next decade.

Nomore **Sitima** (Mr)  
Working Children and Youth Movement in Zimbabwe

Secretariat  
Inter-Ministerial Committee on Human Rights and Humanitarian Law

As a child legislator from Chitungwiza junior Council which mainly advocated for the reevaluation of children's rights and the advancement of children's issue and also to create an avalanche of opportunities to children within Chitungwiza, do appreciate the involvement of children in this Convention on the Rights of the Child Report.

Most of the material that was put into the report was taken from the Constitution of Zimbabwe, Children's Act, Convention on the Rights of the Child and other governmental programme or initiatives that are child friendly and developments that have taken place in as far as the children are concerned. Some of these are new things to us children but it has to be said that this was a learning experience for us. With the help of the present adults we managed to understand some of the things, which we did not understand, and this helped us adapt to the needs of the report.

We cannot complain in as far as the representation of children is concerned since it is the first time the Inter-Ministerial Committee sat on the Convention on the Rights of the Child. I hope that in the future more children would be included or consulted. Also the children would have to be provided with guidelines as the requirements of the report so as prepare them and have them well versed with the requirements of the report.

However, the inclusion of children in this report of the Convention on the Rights of the Child is a major step towards the realization of child participation. Our participation in this report has also enabled us to go back and report back to the other children who are not present as we are now aware of some of the laws that protect children.

Lastly, we say, "Our greatest fear is not that we are inadequate but our greatest fear is that we are powerful beyond measure." I believe our participation was meaningful in coming up with this report.

Tichaona Jefferson **Chise** (Mr)  
Junior Chief Whip  
Chitungwiza Junior Council

Secretariat  
Inter-Ministerial Committee on Human Rights and Humanitarian Law

I, as a member of Working Children and Youth and other children have discovered that early marriages are detrimental to the lives and health of children. However, I appreciate that the Government has taken necessary measures against it and it is decreasing. Me and other children are fighting to also see that the rights of other children are not violated.

As it is an activity we are doing to promote children's rights, for now most are protected but I am concerned about the right to light and limited work which we gave to the Government as a challenge to also assist us in achieving it.

We have managed to share information with other associations within our province on issues of child abuse. The most prevalent form of abuse is sexual abuse, which in most cases leaves its sharp marks on the victims. It can be a matter that some people can pay children money and then abuse them. However, child abuse seems to be decreasing in all the areas we have impacted. We are working closely with the Victim Friendly Courts and units. These offices are helping us to solve such issues. We as working children and Youth

are making follow-ups so we can access our progress. Also with the help of other organizations we have been able to distribute booklets to employers, which has got information on Working Children and youth.

I am grateful I had the privilege to participate in the Convention on the Rights of the Child reporting process. It has encouraged me and taught me more about the rights of children and what Zimbabwe is doing.

Sarah **Mandiwana** (Ms)  
Child Coordinator, Midlands Province  
Working Children and Youth Movement in Zimbabwe

Secretariat  
Inter-Ministerial Committee on Human Rights and Humanitarian Law

I would like to start by expressing my appreciation for the chance to take part in this process of writing our Zimbabwe state party report.

As a lot of children our age are suffering as victims of child abuse we as children have formed our own organizations in the urban setting to work with various stakeholders in our communities so we sensitise people on the ills of child abuse. The stakeholders include the police, social welfare officers, health personnel and the community at large.

Through various networks established by Junior Councils and Junior Parliament, cases of sexual abuse are reported and dealt with promptly and the perpetrators are brought to book. We have also worked with the Victim Friendly Units and Courts to protect child victims against sexual abuse.

We have learnt that the Government wants to amend marriage laws in Zimbabwe. The new laws will provide that young people, both boys and girls, can consent to marry at the age of 18. I think this is very good and that we can be protected more as children if the age of sexual consent is reviewed to make it 18. At the age of sixteen, most of us are still in school and are very young. If the age of sexual consent is reviewed then we will be protected some more and can finish school whilst the perpetrators are brought to book.

In relation to corporal punishment I believe that it is important to discipline children as long as it is under control. However, the Ministry of Education must make sure that schools do not allow prefects to punish other school pupils. This should be the duty of the headmasters provided in the Act.

The government is significantly helping the less privileged parents with the payment of school fees through the BEAM program and also with medication for some less privileged children. However, I feel those children living on farms are not benefiting from these support systems being offered by government.

Again I say thank you for the chance to take part in the report write writing process. I will be able to share with fellow Parliamentarians what I have learnt about the Convention on the Rights of the Child and writing of the report.

Claribel **Dick** (Ms)  
Kadoma Junior Mayor