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Joint Stakeholders' Submission on:

The Rights of Children and Adolescents in Zambia

Submitted by:

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**VIDES International – International Volunteerism Organization for Women, Education
and Development**

Marist Foundation for International Solidarity (FMSI)

(NGOs in Consultative Status with ECOSOC)

Salesian Sisters of Zambia

and

Marist Brothers of Zambia

Geneva, July 2022

I. INTRODUCTION

1. This stakeholders' report is a joint submission of the above-mentioned organizations. The report highlights key concerns related to **children's rights** in the Zambia, particularly in the area of **education**. Each section conveys recommendations to the Government of the Zambia.
2. The data and information obtained for this submission came from various sources and includes information from youth, teachers, educators, and other civil society actors living and working in Zambia. All information concerned the period from November 2017 to June 2022.
3. IIMA is an international NGO in special consultative status with the Economic and Social Council. IIMA is present in 97 countries where it provides education to children, adolescents, youth and women, particularly the most disadvantaged and vulnerable.
4. VIDES International, established in 1987, is an international NGO in special consultative status with the Economic and Social Council operating in 43 countries. It promotes volunteer service at the local and international levels to ensure the implementation of human rights to vulnerable groups, especially children and women.
5. The Marist Foundation for International Solidarity (FMSI) is an international NGO in Special Consultative Status with ECOSOC and operating in 65 countries. FMSI was established in 2007 and has a special focus on promoting and protecting the rights of children through supporting projects, especially for the access to quality education and advocacy.
6. The Congregation of the Salesian Sisters in Zambia is particularly committed to the protection and empowerment of the most vulnerable children, adolescents and young people in the country. Inspired by the Preventive system of St. John Bosco, the Salesian Sisters work in formal and informal education, running schools from Pre-school to secondary, offering vocational training, and running shelters for children in street situations, orphans, child victims of abuse among other vulnerable children. They also promote the empowerment of women especially in rural areas and in the outskirts of the city.
7. The congregation of the Marist Brothers came to Zambia in 1954 and built Chassa Secondary School. The pioneer Brothers of this mission came from the Marist Brothers Province of Quebec in Canada, now all the Brothers and lay people are Zambian. The Marist Brothers run Chassa Secondary School in Sinda, St. Paul's Primary and Secondary Schools in Kabwe as well as St. Marcellin Education Centre (Secondary School, Youth Centre and Youth Skills Centre) in Kalulushi. They are actively involved in the area of education, children's rights and different kinds of social and animation activities aimed at children and young people.

I. GENERAL REMARKS AND COOPERATION WITH THE UPR MECHANISM

8. The Republic of Zambia was reviewed on 13th November 2017 at the 28th Session of the Working Group on the Universal Periodic Review. This NGO coalition welcomes the constructive participation of Zambia in the Universal Periodic Review (UPR). On this occasion, Zambia received 203 recommendations and immediately expressed its support for 90 recommendations, noted 111 recommendations and deferred taking a position on 2 recommendations. The present joint submission represents the follow-up to the UPR

recommendations accepted by the State in 2017.¹

9. The implementation of recommendations is critical in order to ensure a true advancement of human rights in the State under review. Therefore, Zambia must pay particular attention to effectively follow-up those recommendations and in consultation with Civil Society.

II. VULNERABLE CHILDREN IN ZAMBIA

10. Zambia ratified the Convention on the Rights of the Child on 6th December 1991. Through this ratification, Zambia made a commitment to create positive conditions for the realization of the children's rights. As a State party to the treaty, Zambia has obligations to respect, to protect and to fulfil the Convention on the Rights of Child. Vulnerable children and adolescents require consistent, systematic and holistic support. The need for comprehensive social protection has been integrated into Zambian development plans, defined as policies and practices that protect and promote the livelihoods and welfare of people suffering from critical levels of deprivation and/or vulnerable to risks and shocks.²

11. Accordingly, the government of Zambia has formulated the Child Policy with the aim of providing specific measures to improve the living conditions of children in Zambia, while ensuring that programmes of economic and social development directly address the most urgent needs of this critical population. Above all, this policy represents the government's vision and principles on issues concerning children and how they should be addressed. Besides this, Zambia already has a Child Protection Policy. Despite the efforts of the government and other stakeholders, the coverage gaps in social protection remain, especially among children and adolescents who face unique vulnerabilities related to mental and physical health, which keeps them out of school at times. Some of them engage in drug abuse, early pregnancies which comes with HIV and Aids in some cases.

12. Among the most vulnerable children and adolescents, there are the **children in conflict with the law**, for whom the Government intends to ensure the separation of children from adults detained in police stations and other detention facilities. Moreover, the government developed the National Diversion Framework aiming to channel children in conflict with the law away from the formal court system through the development and implementation of procedures, structures and programmes that enable most children to be dealt with by non-judicial bodies, thereby avoiding the negative effects of formal judicial proceedings.

¹ Report of the Working Group on the Universal Periodic Review of Zambia, 9 January 2018, UN Doc. A/HRC/37/14 and its *Addendum* UN Doc. A/HRC/37/14/Add.1.

² The Zambian Government is committed to reducing poverty and vulnerability among its population in general and for the poor and vulnerable segments of society in particular. Recognizing that vulnerability and the lack of resilience result from, cause and reinforce poverty, Government's poverty reduction efforts cannot sideline Social Protection. (Zambia National Protection Policy, June 2014, 1.0)

13. With regard to age of criminal responsibility, we regret that Zambia only took note of recommendations n. 131.64 – 131.66 on the topic.³ According to the penal code, a person under the age of eight years is not criminally responsible for any act or omission. This means any person below the age of 8 is not criminally liable in Zambia. However, the person above 8 and 18 is still liable. In accordance with the protection of the best interest of the child, Zambia has to increase the minimum age of criminal liability.

14. Children victims of early and/or forced marriage. Several recommendations were addressed to Zambia on the topic during the last UPR in 2017. Zambia accepted to implement some of them⁴, but only took note of other relevant recommendations.⁵ This NGO coalition note with concern that forced and early child marriages remain a very serious issue in the country. The campaign to end child marriage in Zambia was started following a Cabinet directive and subsequently launched in 2013 to address the human rights violations as well as development challenges associated with child marriage. Child marriage, defined as the legal marriage or informal union before the age of 18, was recognized as a 'disaster' since an estimated 31 per cent of women aged 20 to 24 married before the age of 18. At present, Zambia is among the top twenty countries with the highest prevalence rate of child marriage in the world. Comparatively, 17% of girls aged 15-19 are married while only 1% of boys of the same age group.

15. According to Plan International⁶, currently, 42 per cent of girls under the age of 18 are married, meaning that two in five girls in Zambia are child brides. Zambia is amongst the 20

³ Recommendations n. 131.64 Raise the minimum age of criminal responsibility and provide adequate protection of child victims and witnesses of crime during trial (Slovenia); 131.65 Consider reviewing the legal age of criminal responsibility with a view to ensuring full protection for juveniles in conflict with the law (Bolivarian Republic of Venezuela); 131.66 Raise the minimum age of criminal responsibility above 8 (Sierra Leone). Report of the Working Group on the Universal Periodic Review of Zambia, 9 January 2018, UN Doc. A/HRC/37/14 and its *Addendum* UN Doc. A/HRC/37/14/Add.1.

⁴ Recommendations n. 129.21 Adopt effective measures to put an end to discrimination based on gender and to violence against women, as well as to child marriage. This would include awareness-raising campaigns and trying to bring in local authorities and traditional leaders into the process (Spain); 129.81 Take all necessary measures to accelerate the adoption and implementation of the Marriage Bill (2015) to help end child marriage in Zambia (United Kingdom of Great Britain and Northern Ireland); 129.82 Continue and strengthen efforts to prevent and eliminate child marriage (Maldives); 129.83 Continue efforts to combat child marriage (Morocco); 129.84 Take additional steps aimed at addressing the high rate of child marriage, including by fully implementing the national strategy aimed at reducing child marriage by 2021 (Namibia). *Ibidem*.

⁵ Recommendations n. 131.90 Modify its national and customary laws in order to prevent child, early and forced marriage (Sierra Leone); 131.91 Set a minimum age for leaving school, which would provide incentives for addressing early marriage and child labour (Slovakia); 131.92 Set a minimum age for marriage under customary law, to be in line with the legal age of marriage determined by statutory law (Slovakia); 131.93 Ensure country-wide implementation of the Marriage Act establishing the legal age for marriage as 21 years of age (Slovenia); 131.99 Comply strictly with the normative provisions regarding the minimum age for marriage, and prevent and investigate cases of forced marriage, prosecuting the perpetrators and ensuring assistance to victims (Argentina); 131.100 Fully fund and implement the Anti-Gender-Based Violence Act, the Gender Equity and Equality Act and other legislation and policies to protect girls from child, early and forced marriage and other forms of abuse (Canada); 131.102 Adopt and implement improvements to the legislation relating to children, in particular, increase the minimum age of criminal responsibility to an internationally acceptable level, address the high rate of child labour, prohibit the forced marriage of children, and end violence and sexual exploitation, including abuse, neglect and ill-treatment (Uruguay). *Ibidem*.

⁶ PLAN INTERNATIONAL, Programme on ending child marriage in southern Africa.

hotspots in the world as regards the incidence of child marriage. Of the 42 per cent, 9 per cent are married under 15 years of age. To date, many of the interventions designed to directly or indirectly end the practice of child marriage have tended to fall into a number of thematic categories. Unfortunately, many of the interventions were designed independently of each other and operationalized within the parameters of different sector programs or as stand-alone initiatives. The weak coordinated approach and overall guiding strategy have diluted the potential impact of many interventions or led to competing and at times contradictory approaches. Apart from this, funding to reach the remote areas of the country has derailed the process. Therefore, more still needs to be done to totally eradicate this phenomenon in rural areas, where early child marriages still represent a serious hindrance to the right to education. As of today, UNICEF estimates that Zambia is home to 1.7 million child brides⁷. Of these, 400,000 were married before age of 15.

16. To address this critical issue, the government adopted the National Strategy on Ending Child Marriage in Zambia 2016 – 2021, which is aimed at accelerating national efforts to end child marriage by 2030 by providing an operational framework that reflects the current national and global trends and efforts. While a number of challenges remain – including sustained political will, allocation of financial and human resources and the development of a National Plan of Action – Zambia’s national strategy is an important and much-needed step forward.

17. Children in street situations. It is alarming to note of the increasing number of children and adolescents living and/or working on the streets in Lusaka, the capital city, and in the other main towns. In as much as determining the reason behind this phenomenon may need a comprehensive research, first-hand information from some of these children highlights the nexus to insufficient livelihood in the family. As the transition from adolescent to adulthood is crucial, it is important to keep in mind that their safe and productive transitions have major implications for the nation’s future health, economic growth, and the well-being. Thus, the social support given to adolescents must respond to their immediate needs by particularly addressing issues such as food insecurity, barriers to health-care access, barriers to school enrolment.⁸

18. This NGO coalition recommends the Government of Zambia to:

- a) Assess the impact of the National Strategy on Ending Child Marriage in Zambia 2016 – 2021 and undertake prompt and effective follow up measures.***
- b) Increase the minimum age for criminal responsibility in accordance with the Convention on the Rights of the Child.***

⁷ www.unicef.org/zambia/ UNFPA-UNICEF GLOBAL PROGRAMME TO END CHILD MARRIAGE (retrieved 19th June 2022)

⁸ Study on Coordination of Social Protection Policies: Support to Government of Zambia’s Formulation of the Social Protection Policy, International Labour Organization, 2013. See also the Republic of Zambia Implementation Plan 2019 -2023, for the operationalization of the integrated framework of basic social protection programmes.

- c) *Double its efforts to address the root causes of early marriages and maintain girls in the education system.*
- d) *Continue strengthening the frameworks for the coordination of social protection policies focused on adolescents, so as to facilitate safe and productive transitions to adulthood in lower- and middle-income families.*

III. RIGHT TO EDUCATION

19. This NGO coalition welcomes the acceptance by Zambia of recommendations n. 129.68 – 129.75 to improve access and quality of education in the country.⁹

Domestic Framework and Political Commitment

20. The right to education aims at the development of the child’s personality, talents and mental and physical abilities to their fullest potential. For this reason, the United Nations Convention on the Rights of a Child demands primary education to be free. Since Zambian political independence in 1964, three major education policy documents have been developed. These include: ‘Educational Reform’ (1977) – which highlighted education as an instrument for personal and national development; ‘Focus on Learning’ (1992) – which emphasized the need for the mobilization of resources for the development of schools; and ‘Educating Our Future’ (1996) – which stresses the importance of education for all children in primary, secondary and tertiary educational institutions. This document spelt out clearly that all the children have the right to free primary education.

21. In line with a growing global consensus that investments in education must focus on achieving improved learning outcomes,¹⁰ the Ministry of General and Higher Education embarked on a program of transforming the country’s education system. The focus has been “to achieve quality and relevant lifelong education and skills training for all”.¹¹ The country’s vision 2030, which focuses on attaining prosperous middle-income nation status by 2030 by creating an enabling environment for sustainable socio-economic development, and the 7th National Development Plan (7NDP), which aims at eliminating poverty and reducing inequality by 2030, have greatly influenced the current shape of education in the country by prioritizing the accessibility to and the provision of quality education to all citizens. Education is one of the

⁹ 129.68 Pursue its efforts so as to improve health services and education (Libya); 129.69 Increase consequently resources devoted to the health and education sectors for the population living in rural areas (Togo); 129.70 Strengthen efforts to broaden access to education in accordance with the revised Education for All National Policy and increase allocations to the education sector (Pakistan); 129.71 Pursue further reforms in the education sector to improve the availability, accessibility, affordability and quality of education for all (Brazil); 129.72 Further ensure access to compulsory education and equal learning opportunities for all children (Indonesia); 129.73 Make education reforms to increase the quality of education, make it more accessible and facilitate re-entry of adolescent mothers back to school (Kenya); 129.74 Continue its efforts to provide universal access to education (Mongolia); 129.75 Work to extend its efforts regarding free primary education to all (State of Palestine). Report of the Working Group on the Universal Periodic Review of Zambia, 9 January 2018, UN Doc. A/HRC/37/14 and its *Addendum* UN Doc. A/HRC/37/14/Add.1.

¹⁰ World Bank 2018.

¹¹ Ministry of General Education and Higher Education (Lusaka), *Education Skill Sector Plan 2017-2021*, 20.

vehicles that would enable it to attain this status.

Access to Education

22. According to the UNICEF ZAMBIA, Zambia has achieved near universal primary school completion levels.¹² This is because the national statistics indicate a completion rate of 91.8 percent in Grade 7. However, there are considerable regional disparities, with the Northern Province recording 81.3 per cent (72 per cent for female students) and Lusaka a rate of 78.6 percent. For children in the early years, the coverage of care, learning and education services remains persistently low. Overall, girls continue to be at a disadvantage with a large number of them dropping out in the upper primary and secondary grades, and poorer levels of transition to junior secondary and senior secondary levels. From 1996 to 2011, the government implemented a 9-year basic education so as to increase access to education. Even after 2011, the government embarked on a 100% progression rate to secondary school for all the grade 7 graduates. The Education Act No 23 of 2011 clearly spelt out that every child has a right to free basic education. It also emphasized the importance of early childhood education. The Act went further to say that a learner who leaves or is withdrawn from an educational institution may be re-admitted at the education institution on such terms and conditions as the educational institution may determine. Chances are given also to a learner who falls pregnant or impregnates a female learner while pursuing a course of study at an educational institution shall be re-admitted to the educational institution after the baby's delivery. This is known as the re-entry policy which remains in force till today.

23. The United National Party for Development (UPND) (New Dawn) government run by President Hakainde Hichilema has also put education at the forefront of its manifesto. Some of their aims include increasing the share of education in the national budget in line with the country's commitment at the international level and reforming the bursary and student loan system so that students who cannot afford to pay school or university fees can take up their places. Under this system, every student will be able to study regardless of financial status, with any recoveries deferred until they are financially capable of doing so.

24. Another aim includes ensuring girl children have equal access to education as boy children by tracking and addressing challenges that girl children face such as child marriages, menstrual hygiene and pregnancies. For this reason, on the 8 December 2021 circular, the New Dawn government revealed that the provision of free education from early childhood education to secondary school level would start in January 2022 with the government paying tuition fees through a compensatory grant. The circular also revealed that the government was making a twofold increase in primary and secondary school grants in order to uphold quality education standards. Setting aside a budget of 18.1 billion Zambian Kwacha (about \$1 billion) in the National Budget (2022) for the education sector, the Zambian government announced the abolishment of Parent Teacher Associations (PTA), examination and tuition fees in all government schools. It also announced the recruitment of 30,000 additional teachers and plans to build 120 new secondary schools in order to reduce the teacher-pupil ratio. The government also made additional funds available through the Constituency Development Fund (CDF) to bring relief to children from families suffering from extreme poverty - money that would allow children from remote areas to attend boarding schools as well as get such personal items like

¹² <https://www.unicef.org/zambia/education> (retrieved 19th June 2022)

uniforms and school shoes. The government said that it would raise the extra funding for the education sector by removing subsidies on fuel and electricity, among other initiatives.

25. Traditionally as a way to promote and encourage universal education, one of the traditional leaders Kalonga Gawa Undi of the Chewa ethnic group of Zambia, Malawi and Mozambique banned Nyau (secret Society dances) during school days¹³. Nyau dance can be a hindrance to pupils going to school, especially the boy child. The time they are required at school to learn is also the time they are needed at the Nyau arena. This ban in the Chewa area is a boost to the government policy of free basic education. The population of the Chewa or Nyanja-speaking group of people is over 1,900,000 in Zambia which is a significant population.

Quality of Education

26. Despite these achievements, Zambian education system faces a perennial shortage of resources that range from qualified teachers, schools and classroom blocks (leading to overcrowding) to a shortage of books and other learning materials. Some classes are so crowded that the ratio of teacher–pupil is 1 to 120. Teachers are being overworked and are unable to attend to the individual needs of pupils. They also cannot manage to give adequate homework and remedial work due to large classes.

27. Moreover, there are shortages of desks among other challenges.¹⁴ The National Quality Education of Zambia (NAQUEZ) estimates a shortage of 1.5 million desks in schools across the country. The recruitment of 30,000 teachers appears to be in the process, but still to be realized. Due to overcrowded classes, there is no meaningful improvement in the quality of education offered in Zambian public schools, unless substantial investment is made in the sector. Those families with the financial means to afford tuition fees prefer to send their children to private schools where they receive better quality education.

28. The 8.1 billion Kwacha¹⁵ allocated to the educational sector in the 2022 national budget are not sufficient to make any meaningful impact on a sector that has suffered decades of neglect. Even the previous education budget of about Kwacha 13 billion (about \$730 million) was not enough considering the substantial increase in the cost of living that occurred recently in the country. For example, according to the National Quality Education of Zambia (NAQUEZ), there is a disparity between the enrolment numbers and the amount of funds that the Ministry of Education disburses to the schools, which should be based on the pre-free education pronouncement enrolment¹⁶. The government has been asked to disclose the total amounts disbursed to schools, since the schools are currently overwhelmed with the high number of pupils attending classes. Moreover, the funds released per discipline or category for example on “core curriculum” are too little compared with the numbers of pupils in school and there are no disaggregated figures or percentages to a particular discipline.

29. The poor quality of education is also attributed to poor transition rates from the primary to the secondary education, with many children still unable to read and write even after seven years in school. The reasons of poor transition rates include poor literacy and numeracy skills acquired

¹³ <https://www.daily-mail.co.zm/chief-bans-pupils-from-nyau-dances/> 30th August 2017 (retrieved 19th June 2022)

¹⁴ <https://www.moneyfmzambia.com/2022/05/19/naqez-calls-on-govt-to-disclose-fund-released-for-school-operations/>

¹⁵ 2022 budget address by honourable dr. Situmbeko - National ...<https://www.parliament.gov.zm> > publication docs

¹⁶ <https://www.moneyfmzambia.com/2022/05/19/naqez-calls-on-govt-to-disclose-fund-released-for-school-operations/>

among primary school pupils, limited spaces for higher level education, and the high cost of secondary and tertiary education. The progression into secondary and tertiary education largely depends on whether pupils have learned to read and count in primary school.

Education in rural areas

30. Moreover, the universal provision of primary education has raised certain challenges in the rural areas. Those who live in the villages have difficulty in accessing learning institutions (schools). In most cases, children are subjected to walk long distances to go to school. Those who cannot return to their villages after the school day due to long distances, come as weekly boarders renting some accommodation nearby the schools. Among them, girl children become particularly exposed to sexual abuse. Some boys who were cattle herders before joining the school are not easily admitted to these schools, due to the general belief and stigmatization towards these boys who are perceived to be difficult to control since they are seen to be rude and too “mature” to be in school, thereby causing a distraction to the learning environment. They are perceived to have a tendency to engage in sexual activities with young girls at a tender age something which cannot be tolerated by the school norms. Therefore, they are rejected in some schools, especially in the Sinda District of Zambia. For this reason, they easily fail to continue their education.

31. Moreover, it is always a challenge for teachers to stay in distant villages as life is hard mostly without electricity. Therefore, some teachers shun rural areas or they stay for a short time and they cannot wait relocating to an urban school, a situation which disadvantages the learners.

32. As a conclusion, the government has made a serious commitment to achieve free and accessible education from early childhood to secondary school, which is unprecedented in the history of Zambia. However, this has come with many challenges to the extent that this positive achievement risks not to be sustainable without serious additional measures to alleviate these challenges.

33. To address the education crisis especially for the most disadvantaged and vulnerable children, we recommend the Government of Zambia to:

- a. Continue its efforts to address school dropout especially for girls, in coordination with other initiatives to eradicate early marriages.***
- b. Increase budget allocations to guarantee the quality of education, prioritizing gaps in school infrastructure; recruitment, training and adequate salaries for teachers; and provision of textbooks and educational materials.***
- c. Undertake specific measures to address the multiple challenges linked to the accessibility of education for children living in rural areas, including the stigmatization of boys who are cattle herders, the safety of girls travelling to attend school and the need for educational continuity through incentives for teachers.***
- d. Develop poverty alleviation programs / social protection programs to cover families whose children have had to stop schooling.***

IV. CHILD LABOR

34. This NGO coalition welcomes the acceptance by Zambia of recommendation n. 129.80 to “Enhance protection of the rights of the child, including by abolishing child labour, combating malnutrition and shielding child perpetrators during detention (Norway)”.¹⁷ However, we regret that Zambia only took note of relevant recommendations n. 131.84, 131.86, 131.88 – 89, 131.99 and 131.102.¹⁸

35. Zambia committed herself to creating a National plan for children, formulating the Child Policy; Child Labour Policy; and a Social Protection Policy to provide social protection floors for the vulnerable members of society. The Government of Zambia and partners in collaboration with the International Labour Organisation have facilitated the development of the National Action Plan (NAP) for the elimination of the worst forms of child labour (2020-2025). The NAP II is contributing towards the effective gradual elimination of child labour, especially its worst forms, by 2025 with emphasis on a coordinated multi-stakeholder response that provides social protection to targeted children, their families and communities throughout the country.

36. However, we note with concern that efforts undertaken have not been sufficient, since child labour remains widespread, especially in rural areas such as the Sinda District. In the villages, many boys are employed in taking care of cattle at the expense of their education. The Local Social Welfare has been trying to sensitize the parents but all in vain. According to the law, parents ought to be charged for employing their children in work activities, but this has not deterred them from sending their children from tending cattle, especially their dependants.

37. We recommend the Government of Zambia to:

- a. Work with civil society and local authorities to sensitize urban and rural poor communities to eradicate child work.**
- b. Develop or strengthen existing parenting programs with messages and actions aimed at engaging the parents in reducing the child labor and prioritize children’s education.**

¹⁷ Report of the Working Group on the Universal Periodic Review of Zambia, 9 January 2018, UN Doc. A/HRC/37/14 and its *Addendum* UN Doc. A/HRC/37/14/Add.1.

¹⁸ Recommendations n. 131.84 Take appropriate steps to prohibit and combat child labour and the worst forms of exploitation of children (Senegal); 131.86 Strengthen the implementation of measures taken to fight against child labour and trafficking of children (Djibouti); 131.88 Review the Employment of Young Persons and Children’s Act with a view to including in its domestic labour and family-based enterprises and improve its data collection mechanisms on violations of the Act (Slovakia); 131.89 Step up its efforts to bring an end to all forms of child labour (TimorLeste); 131.91 Set a minimum age for leaving school, which would provide incentives for addressing early marriage and child labour (Slovakia); and 131.102 Adopt and implement improvements to the legislation relating to children, in particular, increase the minimum age of criminal responsibility to an internationally acceptable level, address the high rate of child labour, prohibit the forced marriage of children, and end violence and sexual exploitation, including abuse, neglect and ill-treatment (Uruguay). *Ibidem*.