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Working Group on the Universal Periodic Review

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### **National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21\***

### **Zimbabwe**

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## **I. Methodology**

1. The Republic of Zimbabwe was reviewed under the Universal Periodic Review (UPR) mechanism in October 2011. Following the review, Zimbabwe accepted 130 out of 177 recommendations on various human rights issues that were made for its consideration.
2. The Government of Zimbabwe (GoZ) adopted a participatory approach when it prepared its second cycle report. It held three consultative workshops in 2015 for the purposes of capturing stakeholder input that covered six out of the country's ten provinces. Following this, Government compiled a draft report which formed the basis of further stakeholder consultations. In 2016, three more consultative workshops covering eight out of the country's ten provinces were conducted. Government then finalised the report. (See Annexure B – list of stakeholders)
3. The report is divided into seven parts and closely follows the guidelines provided by the Human Rights Council for the second cycle. It makes reference to the Mid-Term Report which the GoZ submitted in September 2014.

## **II. Developments since the previous review**

4. Since the previous review, the GoZ has made considerable strides towards the implementation of the UPR recommendations. Government brought together all stakeholders to consider the recommendations and to develop a National Plan of Action for the implementation of the recommendations. Government and stakeholders identified sectoral actions for the implementation of the recommendations and the National Plan of Action forms the basis upon which the recommendations are being implemented. A UPR National Steering Committee made up of Government and other stakeholder representatives, including Civil Society Organisations (CSOs), Independent Commissions, Trade Unions as well as the United Nations Country Team (UNCT) sitting in an advisory capacity, was established to oversee and monitor implementation of the National Plan of Action.
5. As reported in the Mid-Term Report, Zimbabwe held a referendum in 2013 which resulted in the adoption of a new Constitution with an expansive Declaration of Rights. The Constitution strengthened the institutional framework for the promotion and protection of human rights by either establishing new institutions, such as the Constitutional Court, the National Prosecuting Authority (NPA), the Zimbabwe Gender Commission and the National Peace and Reconciliation Commission (NPRC), or strengthening existing institutions, such as the Zimbabwe Human Rights Commission (ZHRC), Zimbabwe Media Commission (ZMC) and Zimbabwe Electoral Commission (ZEC). (See part 12 of the Constitution). Thereafter a process to align the country's laws with the new Constitution and to domesticate international obligations commenced. Zimbabwe also held national elections in the same year which brought to an end the Global Political Agreement.
6. The Constitutional Court is endowed with both exclusive and inherent jurisdiction over all constitutional matters including fundamental human rights. Since its inception, the Constitutional Court has delivered a number of landmark rulings on various human rights issues that include outlawing child marriages, declaring the law on criminal defamation unlawful, and declaring as unlawful the powers of the Prosecutor-General to suspend bail granted to accused persons by the courts.

## A. Normative and institutional framework for the protection of human rights

### 1. The Constitution

7. The expanded Declaration of Rights in the 2013 Constitution includes civil and political rights, economic, social and cultural rights, environmental rights, and an elaboration of women's rights, the rights of persons with disabilities and children's rights.

8. The Constitution has improved the enforcement of human rights by expanding *locus standi* for the purpose of seeking redress for human rights violations. In terms of section 85, any person may approach the courts alleging the infringement of his or her rights or the rights of any other person and this was confirmed in the case of *Mudzuru and Another v Minister of Justice, Legal & Parliamentary Affairs and Others* CCZ12/2016.

### 2. Legislative measures

9. Since the previous review, Zimbabwe has enacted various pieces of legislation which promote and protect the rights of citizens and operationalise or strengthen institutions established by the Constitution that contribute to the promotion and protection of human rights, such as the Zimbabwe Gender Commission Act [*Chapter 10:31*], National Prosecuting Authority Act [*Chapter 7:20*], Zimbabwe Human Rights Commission Act [*Chapter 10:30*], Labour Amendment Act (defines the fundamental rights of employees in accordance with international standards), Criminal Procedure and Evidence Amendment Bill and Trafficking in Persons Act [*Chapter 9:25*]. More laws are in various stages of enactment as part of the alignment and domestication process.

### 3. Judicial measures

10. The Constitution guarantees the independence of the Judiciary and provides for principles guiding the Judiciary, which include recognition of the role of the courts in safeguarding human rights and the rule of law. The courts are subject only to the Constitution and the law, which they must apply impartially, expeditiously and without fear, favour or prejudice. To further enhance this independence, the Judiciary, through the Judicial Service Commission (JSC), now receives a direct vote from Treasury.

### 4. Policy and related measures

#### *National Gender Policy*

11. The National Gender Policy has been reviewed and aligned to the Constitution and international and regional human rights instruments, which include the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the SADC Protocol on Gender and Development. It also takes cognisance of the UPR recommendations. The policy promotes equal representation in all institutions, agencies of government, commissions and elective bodies at all levels. The GoZ is aligning all pieces of legislation and in the process incorporating the principle of equal gender representation.

12. Government has called for gender based budgeting at all levels to ensure mainstreaming of gender issues.

#### *National Child Rights Policy*

13. The draft National Child Rights Policy is under consideration. It proposes to place the child at the centre of development in all spheres of life and attempts to create a better coordinating mechanism and framework within which this must happen.

*Basic Education Assistance Module (BEAM)*

14. This scheme supports the enrolment and retention of disadvantaged children in schools at primary and secondary level and 10% of the total allocation for each year is set aside for school children with disabilities. The table below depicts the number of students that were assisted under the scheme for the years 2013–2015.

	<i>Girls</i>	<i>Boys</i>	<i>Total</i>
2013	218,254	219,930	438,184
2014	177,894	210,157	379,051
2015	86,869	96,529	183,398

*Anti-corruption in justice delivery*

15. In an effort to combat corruption in the justice delivery system, a number of initiatives are being implemented. For instance in February 2016, the GoZ launched a campaign against corruption code named ‘ACT’ (Against Corruption Together) where stakeholders such as the JSC, Ministry of Justice, Legal and Parliamentary Affairs, the National Prosecuting Authority, the Zimbabwe Republic Police (ZRP), the Zimbabwe Prisons and Correctional Service and the Anti-Corruption Commission delivered solidarity speeches against corruption. The Civil Service Commission responsible for the employment of all civil servants has declared a zero tolerance to corruption. The GoZ also launched the National Code on Good Corporate Governance in an effort to fight corruption in public institutions.

**5. National human rights infrastructure including national human rights institutions**

16. As indicated in Mid-Term Report, the Constitution provides for Independent Commissions which support the promotion and protection of human rights and democracy. The Zimbabwe Gender Commission Act was enacted in February 2016, paving the way for the operationalisation of the Commission, while a bill to operationalise the NPRC is under consideration. The ZHRC, ZEC and the ZMC are fully operational.

### **III. Promotion and protection of human rights on the ground**

**A. International human rights treaties**

17. Since the previous review, Government has ratified the following human rights treaties: UN Convention on the Rights of Persons with Disabilities (UNCPRD) and its Protocol; UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children; and the Optional Protocol to the UNCRC on the involvement of children in armed conflict.

18. Due to competing priorities such as the Constitution making process and the alignment of laws to the Constitution, Government is still working on the ratification of the remaining human rights treaties. Be that as it may, the Constitution contains provisions which address some of the outstanding treaties, such as the automatic granting of citizenship to all persons below the age of 15 years, the absolute prohibition of torture and the right to personal security are found in the Constitution (sections 36(3), 40, 52 and 53).

## **B. Domestication of human rights treaties**

19. Domestication of human rights treaties is underway as indicated in the Mid-Term Report, with the following notable developments:

(a) Government has established an inter-ministerial taskforce on alignment which is mandated to spearhead the process of alignment of legislation with the Constitution.

(b) All statutes are being reviewed in order to harmonise them with the Constitution.

(c) Government has put in place structures such as the Inter-Ministerial Committee which is provided for in the Trafficking in Persons Act that was promulgated in 2014.

(d) The General Laws Amendment Bill, which will make amendments to 125 laws in line with the Constitution was passed by Parliament.

(e) Government is reviewing the Children's Act in order to align it with the Constitution and the UNCRC.

(f) The Disabled Persons' Act is being reviewed in order to align it with the Constitution and the UNCRPD.

(g) Other notable laws at various stages of enactment include the Criminal Procedure and Evidence Amendment Bill, the Constitutional Court Bill and the Lands Commission Bill.

## **C. Voluntary commitments**

20. Zimbabwe extended an invitation to the then UN High Commissioner for Human Rights, Navi Pillay, who visited the country in May 2012. Zimbabwe will continue to cooperate with special mandate holders in the discharge of their functions.

21. In 2013, the African Committee of Experts on the Rights and Welfare of the Child was in the country where it held an induction workshop for its new members and held consultations with Government and civil society on the implementation of children's rights. In May 2016, the African Commission Special Rapporteur on freedom of expression and access to information visited the country and met with key stakeholders.

## **D. National human rights institutions' activities**

22. During the period under review, the ZHRC carried out a number of activities to fulfill its mandate in terms of the Constitution. The Commission conducted awareness campaigns during their open days where different stakeholders were invited to participate. It has also been commemorating the International Human Rights Day since 2014 and it continues to receive and investigate complaints of allegations of human rights abuses.

23. The Commission has carried out the following missions:

(a) Prison inspection and monitoring visits at various prisons to ensure the observance of human rights and humane treatment of inmates in relation to recognised national and international standards on the rights and welfare of inmates with a view to making recommendations to Parliament and Government. The visits were also meant to popularise the Commission as the organisation with the mandate to promote and protect the rights of prisoners in Zimbabwe to inmates, prison officers and relevant stakeholders.

(b) In February 2014, a national disaster was declared after heavy rains and floods swept away homes and animals in the Tokwe-Mukosi area. Government intervened and relocated those affected to the Chingwizi Relocation Site in Mwenezi District. The disaster was widely publicised and the ZHRC promptly reacted by carrying out a visit to the relocation site and the objective was to follow up on complaints that were received from various quarters including representatives of people who had been moved to the site. Recommendations made by the Commission were acted upon by Government.

24. The Justice, Law and Order Sector (JLOS) is involved in the promotion of access to justice for all persons in Zimbabwe. There is an ongoing programme on the decongestion of prisons where the JLOS is advocating for other forms of punishment other than incarceration.

## **E. Public awareness of human rights**

25. The GoZ recognises the importance of raising public awareness on human rights. For instance, human rights training and awareness raising is now a core element in the syllabi of the law enforcement agencies.

26. Government, through its UPR National Steering Committee, is conducting mass public awareness campaigns on human rights.

27. Public awareness campaigns have been carried out at annual commemorations such as: the International Day of the Child; the Day of the African Child; the International Day of Disabled Persons; International Women's Day; and International Human Rights Day. Awareness raising is also carried out at grass root level through capacity building of community leaders, religious leaders and community focal persons who further raise awareness in their different communities. Child rights awareness is raised through participation at different exhibitions such as the Zimbabwe International Trade Fair and Harare Agricultural Show.

28. Government promotes public awareness of the Constitution in the form of advocacy meetings with communities, radio programmes and exhibitions at fairs. With the support of development partners, over one million copies of the Constitution in ten officially recognised languages have been distributed through Government structures, CSOs, Educational Institutions, and Faith Based Organisations. Government has also embarked on a nationwide distribution of simplified booklets on children's rights. Six out of the ten provinces have benefitted from this initiative.

29. The new education curriculum which has been developed and comes into force in 2017 has as one of its aims, to prepare learners for participatory citizenship and sustainable development with respect to their rights, duties and responsibilities. Children's and human rights have thus been mainstreamed in the curriculum from infant level right up to primary and secondary levels.

30. Government has conducted training of child-led groups such as Junior Parliamentarians on the provisions of the Constitution, the UNCRC and the African Charter on the Rights and Welfare of the Child (ACRWC). Over 250 children were targeted in 2015. The intention is that those who receive training will cascade information to other members of their communities.

31. Government has created an enabling environment for cooperation with CSOs on the raising of awareness on human rights issues. For instance, the Law Society of Zimbabwe has conducted open days where members of the legal profession provide free legal advice to members of the public. Different stakeholders in the justice delivery sector are involved in these activities.

## IV. Follow-up to the previous review

32. As reported in Part B above, as a follow up to the previous review, Government brought together stakeholders that included CSOs, Parliament, Traditional Leaders, the Labour Market and independent commissions to present the accepted recommendations and to develop the National Plan of Action for the implementation of the recommendations. The National Plan of Action forms the basis upon which the Government has been implementing the recommendations, with line Government Ministries and Departments expected to integrate the recommendations into their strategic plans, policies, programmes and other activities. The UPR National Steering Committee, comprising Government and other stakeholder representatives as listed above, has been overseeing and monitoring implementation of the National Plan of Action.

33. The UPR National Steering Committee holds quarterly meetings and annual review meetings for National Plan of Action stakeholders. It facilitated the preparation of the Mid-Term Report, which the GoZ submitted to the Human Rights Council in September 2014.

## V. Achievements, challenges and constraints in relation to the implementation of accepted recommendations

34. Since the previous review, Zimbabwe has made significant strides in the implementation of the accepted recommendations.

### A. Achievements

#### 1. Creating/strengthening independent institutions

35. As reported above, the Constitution has established new independent institutions such as the Zimbabwe Gender Commission and the NPRC. The Gender Commission is now operational. The commissioners for the NPRC have been appointed. The Constitution provides for the strengthening of independent commissions that were already operational, such as the ZHRC, ZEC and the ZMC. In terms of the Appropriation (2016) Act, 2015, all these institutions now have financial autonomy.

##### a. Administration of justice

36. The Constitution has strengthened transparency in the appointment of judges as the process of appointment now includes advertisement of vacant positions, invitation to the public to make nominations and public interviews.

37. The JSC has embarked on a nationwide awareness campaign of the duties and responsibilities of the Commission. A total of 17,273 people have so far attended their public meetings.

38. In order to increase access to justice, nine new magistrates court houses have been opened in six provinces (see Annexure C – new courthouses) and a further twenty-one will be built around the country by the end of 2016. The Supreme Court conducts circuit courts outside Harare in order to facilitate easier and faster access. The Judicial Service Commission has decentralised the High Court.

39. In order to enhance access to justice through the provision of legal services to the indigent and those in remote areas, Government has decentralized the provision of legal aid to eight out of the country's ten provinces.

40. The Pre-Trial Diversion Programme, which is aimed at diverting juvenile offenders from the formal criminal justice system in instances where petty crimes have been committed, was launched by Government in May 2013. The programme has been successfully implemented in five provinces.

41. As previously reported in the Mid-Term Report, magistrates in post have undergone training on the Protocol on the Multi-Sectoral Management of Sexual Abuse and Violence.

42. The Constitution created an independent National Prosecuting Authority, which is now responsible for conducting public prosecutions. The function has been removed from the Attorney-General's Office which previously conducted prosecutions to ensure independence and operational efficiency and effectiveness. A Code of Ethics to guide the conduct of prosecutors in the execution of their duties has been adopted.

*b. National healing and reconciliation*

43. The NPRC will assume responsibility for peace and reconciliation once the Act to operationalise it is in place. Currently the Organ on National Healing, Reconciliation and Integration (ONHRI) has been undertaking that role. Awareness campaigns on peace building are on-going. The campaigns include issues pertaining to conflict prevention, management, resolution and transformation. Civil society stakeholders have also been involved in national healing efforts. Some partners have been working with traditional leaders on their role in peace building and supporting the work of the ONHRI.

**2. Economic, social and cultural rights**

44. Government launched the Zimbabwe Agenda for Sustainable Socio-Economic Transformation (Zim-ASSET) for the period October 2013 to December 2018, an economic blue print that is meant to revive the economy and achieve sustainable economic development propelled by the judicious utilisation of the country's human and natural resources. One of the key objectives of Zim-Asset is for the country to derive maximum benefits from its natural resources and economically empower the people, which in turn should contribute to socio-economic development and poverty alleviation. This will enhance the realisation of socio-economic rights. Zim-Asset is built around four strategic clusters namely:

- **food security and nutrition:** Government is providing disadvantaged households with agricultural inputs and farming implements under the mechanisation programme for small holders. Eight irrigation projects have been rolled out in each province through strategic partnerships. These efforts are intended to ensure food security.
- **social services and poverty eradication:** Government has initiated various economic empowerment funds such as the Small and Medium Enterprises Fund, National Youth Fund and Women's Development Fund.
- **infrastructure and utilities:** Government is resource mobilising for infrastructure rehabilitation e.g. hydroelectric expansion, low income housing, water and sanitation and road network expansion.
- **value addition and beneficiation:** Government has put in place systems to encourage full utilisation of all resources for maximum value addition and beneficiation.

a. *Right to water and sanitation*

45. The Constitution provides for the right to safe, clean and portable water (See section 77 of the Constitution). This right is justiciable as confirmed in the case of *F. Mushoriwa v City of Harare* HC4266/13.

46. The National Water Policy was launched in May 2013 to guide the Government in the provision of adequate water and sanitation and work is underway to assess the needs of urban areas while siting of boreholes in rural areas is in progress. Funds have been secured to rehabilitate boreholes in 33 rural districts in five provinces while funding has also been sourced for the refurbishment of sewer and water works in urban areas. 1,398 boreholes have so far been drilled while 10,006 boreholes have been rehabilitated and are now functional. Work is in progress for rehabilitation of water and sewer infrastructure in 14 towns which will positively impact on the distribution of portable water and sewer reticulation. Work has already been completed in five urban areas.

b. *Right to shelter*

47. Government has set a target of 313 368 housing units and stands to be constructed or serviced by 2018 in line with Zim-Asset. To date, a total of 19,123 housing units have been constructed and 30,052 residential stands serviced. A National Housing Policy launched in July 2013 requires developers to put in place proper infrastructure in respect of water and sanitation as well as roads. They are also required to provide both on-site and off-site infrastructure. The national housing delivery strategy and the implementation guidelines are now in place and housing stakeholders are already adhering to the guidelines in their operations.

c. *Right to education*

48. Zimbabwe is mindful of its obligations under the UNCRC and the International Covenant on Economic, Social and Cultural Rights to provide free and compulsory basic education. This is amplified by the fact that the Constitution includes the right to basic State-funded education. In terms of section 75 of the Constitution, every citizen and permanent resident of Zimbabwe has a right to a basic State-funded education, including adult basic education. The State is also obligated to make further education progressively available and accessible, through reasonable legislative and other measures.

49. Measures have been put in place to ensure that no child of school going age is deprived of the right to education as a result of parents' or guardians' failure to pay fees. A policy is in place that no child should be barred from attending school because of non-payment of fees. In addition, Government, through its own resources and with assistance from development partners, provides funding for BEAM to cater for school fees requirements for children from vulnerable families.

50. The Education Development Fund composed of Government and development partners has provided learning resources and improved the quality of education for children in Zimbabwe. The Fund has also ensured the distribution of science kits to 2,424 secondary schools with a view to improve the quality of science education.

51. In addition to reducing the school textbook ratio to 1:1 for the core subjects at both primary and secondary levels, the Fund also invested in the training of school heads to improve management of schools and has provided technical assistance to strengthen Government's capacity to monitor educational services. The development partners are now implementing a long-term plan, the School Improvement Grant (SIG), focusing on broader investments in schools to further improve the quality of education and to ensure that all Zimbabwean children will have the opportunity to reach their full potential. Zimbabwe has also benefited through the Global Partnership for Education whose focus is on boosting

learning outcomes through continuous professional development of teachers, improved teacher supervision and management as well as strengthened evidence based policy strategic planning.

52. In an effort to improve the quality of education, the Government has introduced Early Childhood Development (ECD) in order to strengthen the foundations of education. This is done by ensuring that learners are equipped with various skills from the formative stages of education.

53. In relation to issues of gender equality, section 27(2) of the Constitution states that the State must take measures to ensure that girls are afforded the same opportunities as boys to obtain education at all levels. While the 2014 Education Management Information System shows that gender parity has been achieved at primary and lower secondary levels, the participation rate for girls at upper secondary level is still at 44%. More girls are being encouraged to proceed to upper secondary level and beyond through interventions that address the problems that cause girls to drop out of school.

54. To provide access to education for all, Government has come up with the Non-Formal Education Policy which provides education opportunities to those who never had a chance to attend school, dropped out of school for one reason or the other, or failed to make the most of the opportunities while in school. The Policy, which was launched in 2015, provides for primary and secondary schools in the country to offer non-formal education after normal learning hours.

55. Government continues to strengthen the school feeding programme, which was adopted as a strategy to achieve optimal enrolments, attendance, retention and school completion rates with positive learning outcomes for all. This also contributes towards the nutrition and health status required for individual learners to perform at their best during their school careers.

56. The education curriculum was reviewed in 2015 to produce a learner who is all rounded and can easily respond to national, regional and international demands.

*d. Right to health*

57. The Constitution now makes specific provision for the right to health care in addition to other health rights (sections 29, 48(3), 52(c), 57(c), 60(3), 73(1)(a), 76, 77, 81(f), 82(b) and 84 of the Constitution). This includes the right of every person living with a chronic illness to have access to basic healthcare services for the illness and the requirement that no person may be refused emergency medical treatment in any healthcare institution.

58. The Public Health Act [*Chapter 15:09*] provides for the protection of public health, including prevention and suppression of infectious and sexually transmitted diseases, as well as regulation of the provision of safe water and food supplies and improved sanitation, among other things. The Act also provides for the immunisation of children against disabling diseases such as polio. In addition to this, Government is running programmes to educate the public on accident prevention in the home which may result in disability.

59. Government is resuscitating rehabilitation centres in its administered hospitals and is training more rehabilitation technicians. Government has further developed a network of rehabilitation services throughout the country. All Central, Provincial and District Hospitals and some Mission Hospitals have purpose built facilities offering a wide range of rehabilitation services that include physical therapy, occupational therapy, communication therapy, audiology, prosthetic services and referral for necessary corrective surgery. Children who are not able to access institutional services are seen through outreach services or through community based rehabilitation. These services are significant in enabling

children with impairments, activity limitations and participation restrictions to live independently, remain in or return to their home or community and to participate in education and societal activities in general. They help increase potential for children with disability to enjoy the same opportunities as children without disabilities.

60. Government has put in place a free user fee policy, the Assisted Medical Treatment Order (AMTO), which supports the indigent, children under the age of five, pregnant women and elderly persons above 65 years. Government has managed to uphold the free user fee policy through support from the Health Development Fund (HDF), World Bank and other development partners. The HDF is a multi-donor pooled fund aimed at assisting the GoZ achieve planned progress towards the highest possible level of health and quality of life for all Zimbabweans. The GoZ has also put in place the Result Based Financing (RBF) programme funded by the World Bank, HDF and GoZ to address the same issues at primary care level.

61. Funding modalities such as the Integrated Support Programme (ISP), H4+ and the RBF, among others, have been set up to assist in financing maternal and new born health interventions. Within these frameworks, some of the interventions implemented in 2014 included revitalisation of the maternity homes and improving emergency referral systems. Government is working with WHO and UNICEF to carry out national immunisation programmes for people in the hard to reach areas.

62. The availability of vital medicines at institutions by the end of 2013 was 66.6%. With development partner support, which is targeted at the communities, 87.2% of primary health care facilities have at least 80% of selected essential medicines. Government has removed customs duty on all imported anti-malarial medicines and commodities and permitted local pharmaceutical companies to produce anti-retroviral drugs. Government has a bilateral agreement for doctors and other health professionals with countries such as Cuba to alleviate shortage of doctors in the country.

63. Government is scaling up Anti-Retroviral Therapy (ART) services to reduce morbidity and mortality due to HIV and AIDS through: making drugs available and accessible; offering patients ARVs free of charge; training primary counsellors in rapid HIV testing; establishing sites offering ART services; and mobilising and empowering communities to support improved access to care and support.

64. Please refer to Annexure D for more statistical information on the implementation of recommendations relating to the right to health.

*e. Right to land*

65. Government has started implementing the Agriculture and Mechanisation Policy which provides farming equipment to re-settled farmers. It is also working to re-capitalise a State-owned agricultural financial institution and also the creation of the Agricultural Development Bank, which will seek to provide agricultural loans to farmers. This is intended to improve agricultural production.

66. Government has also started issuing land use permits to A1 small-holder farmers and is finalising the 99 year lease document for A2 commercial farmers with the banking sector so that it becomes bankable. A total of 221 472 households across the country were settled under the A1 and A2 models, taking 9.6 million hectares of land. This is intended to encourage farmers to fully utilise the land allocated to them by Government so that agricultural production is boosted.

67. Government is monitoring the use of agricultural land to ensure that land is being used productively.

### **3. Co-operation with CSOs and other stakeholders**

#### *a. Cooperation with CSOs*

68. Government is cooperating with CSOs, including commemoration of important occasions such as the International Human Rights Day. With reference to the UPR, Government has been holding review and consultative meetings with stakeholders, to review progress on the implementation of the UPR recommendations. CSOs are part of the UPR National Steering Committee.

#### *b. Co-operation with human rights mechanisms*

69. Zimbabwe has been cooperating well with international human rights mechanisms, in particular the various treaty bodies. Zimbabwe has made good progress in the area of State Party reporting. For example, the following notable progress has been made:

- The periodic reports on CEDAW (2012), ACRWC (2015) and UNCRC (2016) have been presented to the treaty bodies. A National Plan of Action on the implementation of the CEDAW recommendations was developed while the National Plan of Action on the implementation of UNCRC and ACRWC recommendations will be developed during the course of 2016.
- The following periodic reports have been compiled and will be submitted in due course: the African Charter on Human and Peoples' Rights (including the Women's Rights Protocol); International Covenant on Economic, Social and Cultural Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; UNCRPD; and the International Covenant on Civil and Political Rights.

#### *c. Financial, technical and other co-operation assistance*

70. Government has been receiving financial and technical support from the UNCT under the Zimbabwe United Nations Development Assistance Framework (ZUNDAF). Government, in partnership with UNCT, is currently implementing ZUNDAF 2016-2020.

71. The UNCT, through UNDP, has been providing further financial and technical support in the area of the promotion and protection of human rights. Further cooperation by the UNDP has focused on the capacity development for the Inter-Ministerial Committee on Human Rights and International Humanitarian Law (IMC), the JLOS and UPR processes.

72. Zimbabwe has been receiving financial and technical support from other development partners such as the Royal Norwegian Embassy and the European Union. Government has continued to make efforts to mobilise more support.

### **4. Diamond mining**

73. Zimbabwe is now Kimberley Process Certified and continues to meet the minimum requirements of the Kimberley Process Certification Scheme. This is being achieved through implementation of laws and regulations that govern the diamond industry which are consistent with international standards. For purposes of transparency and accountability, Government has merged diamond mining firms.

74. Villagers who were affected by the mining activities were relocated and provided with land and amenities which include schools, clinics and water reticulation systems by the diamond mining firms.

## 5. Media

75. The Constitution broadens the right to freedom of expression to include freedom of the media. Broadcasting and other electronic media of communication may be freely established, subject only to licensing procedures that are necessary to regulate the airwaves and other forms of signal distribution. Other developments in the media include the liberalisation of the airwaves which has resulted in the licensing of national and regional commercial radio stations. For example, the Zimbabwe Media Commission has recently processed twenty-one applications for regional commercial radio stations and eight have been licensed. The Commission has invited applications for the licensing of more television services. The registration of more media houses is an on-going process. Since March 2012, 86 media houses have been registered whilst 128 publications have also been registered.

76. With respect to the review and consolidation of media laws, the Constitution recognises freedom of expression and freedom of the media as well as access to information under the Declaration of Rights. Government instituted an inquiry into the information and media sector through the Information and Media Panel of Inquiry (IMPI). The findings and recommendations of IMPI will inform the policy and legislative processes.

77. Upgrading of broadcasting infrastructure is on-going. Implementation of the digitalisation programme is underway with a view to shifting from analogue to digital in line with ITU requirements.

## 6. Elections

78. A referendum to adopt the new Constitution was successfully held in March 2013 and it was followed by harmonised elections in July 2013. The elections were endorsed by a number of observer missions which included the African Union and SADC. The Constitutional Court also ruled that the elections were free and fair.

79. In line with the recommendation for Zimbabwe to continue safeguarding its sovereignty, the Constitution provides that Zimbabwe is a Unitary, Democratic and Sovereign Republic, hence, the Constitution has, inter alia, provisions for periodic, free and fair elections that are consistent with regional and international standards. The Constitution stipulates principles of the electoral system which include requirements that elections must be peaceful, free and fair and free from violence and other malpractices. Regarding the actual conduct of elections, the Constitution requires ZEC to ensure that the voting method used must be simple, accurate, verifiable, secure and transparent. ZEC now administers the voters' roll, which has been removed from the purview of the Registrar-General, and has been registering voters in the constituencies in which it has been conducting by-elections. An Electoral Amendment Act to govern the running of elections is now in place.

80. Since the general elections in 2013, Zimbabwe has held Parliamentary and local authority by-elections which have been peaceful and in accordance with the Constitution and electoral laws. As part of efforts to prevent political violence and punish perpetrators, magistrates' courts are designated to deal with cases of political violence during election time.

81. A voluntary code of conduct for political parties is in place and it was utilised during the general elections in 2013.

## 7. Women's rights

82. Developments relating to women's rights have been reported in the Mid-Term Report and the following are further developments.

83. A gender-based violence information system was set up to coordinate the collection of relevant data from various departments and institutions to ensure that gender-based violence issues are adequately captured and well documented.

84. Government has set up an Inter-Ministerial Committee on Rape and Sexual Violence to carry out thorough investigations into the causes of rape of minors and elderly women.

85. Zimbabwe also participates in the 16 Days of Activism against Gender-based Violence Campaign and has gone further to extend same beyond the commemoration period.

86. The Broad Based Women Economic Empowerment Framework is being implemented and has resulted in an increase in women's participation in economic sectors such as agriculture and mining. The Women's Development Fund is in place and Government is working towards establishing a Women's Bank to improve access to affordable finances by women and facilitate financial inclusion by decentralising the banking system.

## 8. Children's rights

87. As intimated earlier in paragraph 7 above, the Constitution now provides for children's rights (section 81).

88. Regarding the creation of a system for disaggregated data on children, the Coordinating Office for Children's Rights is putting in place measures to have a centralised database, working closely with the Zimbabwe National Statistics Agency.

89. Government, in partnership with other stakeholders, launched the African Union campaign to end child marriages on 31 July 2015. This effort was bolstered on 20 January 2016, when the Constitutional Court delivered a landmark ruling which outlawed child marriages and struck out section 22(1) of the Marriage Act [*Chapter 5:11*], which made exceptions for minors to get married in certain circumstances. Government is now taking measures to amend the law so that it conforms to the Constitutional Court ruling.

90. Other legal developments beneficial to children include the recent ruling by the High Court that children born out of wedlock are entitled to inheritance rights just like children born in wedlock, where the father passes away intestate (*Bhila v Master of the High Court & Others* HH549/15).

91. The Child Protection Fund (CPF), a multi-donor transition pool funding mechanism, supported implementation of the National Action Plan for Orphans and Vulnerable Children phase two (NAP II), 2011–2015. The CPF adopts a Theory of Change that emphasises access for “children, families and communities to improved preventive and responsive child protection services reinforced by household and community economic resilience in targeted areas”. More importantly, CPF aims to realise genuine harmonisation of various social assistance instruments under the HSCT programme and re-establish Zimbabwe's national social protection system under the National Social Protection Policy Framework (2015). With significant investments made under the CPF during 2011–2015, implementation of NAP II has achieved the following significant results:

- Regular and reliable bi-monthly cash payments under the Harmonised Social Cash Transfer (HSCT) programme were made to a peak beneficiary enrolment of 55,509 food-poor, labour-constrained households in 19 districts around the country. 83% of these households had children, 62% were female-headed and 61% were headed by older persons.

- The child protection system was strengthened through roll out of a national Case Management System complemented by child protection and welfare services provided to approximately 50,000 children in 37 districts around the country.
- Considerable child protection and welfare systems strengthening targeted mostly at Government capacity to regulate and provide service provision to children.

## 9. Birth certificates

92. The Constitution states that every child, that is every boy and girl under the age of eighteen years, has the right to the prompt provision of a birth certificate (section 81(1)(c)). This applies to a child who is born in Zimbabwe or born outside Zimbabwe and is a Zimbabwean citizen by descent.

93. Registration of births and deaths is compulsory in Zimbabwe. Birth registration is provided free of charge to children below the age of six years.

94. The following measures are in place to cater for birth registration:

- The registration offices are centred throughout all the ten provinces and seventy-two districts. Government opened 206 sub offices in the districts to bring registration services closer to the communities.
- Birth registration offices were established at all hospitals to facilitate accessibility of birth registration to mothers who would have given birth at the hospitals.
- Hospitals and clinics with maternity facilities issue birth confirmation records which are used for birth registration purposes.
- Government has computerised the processing of all vital civil registration events and has moved from analogue to digital communication to speed up the processing of vital events.
- Where children are born out of wedlock, Government has done away with the previous requirement for both parents to present themselves in obtaining a birth certificate and passport for their child.

## 10. Prohibition of torture

95. The Constitution provides for an absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment. The relevant laws are being reviewed with a view to aligning them with the Constitution in the ongoing alignment process.

96. The Zimbabwe Republic Police and the Zimbabwe Prisons and Correctional Service training curriculum now incorporates human rights issues and the rule of law, including the prohibition of torture. The ZRP has so far trained over 30,000 police officers on human rights since January 2014.

## 11. Prison conditions

97. Government is reviewing the Prisons Act in order to give effect to various international minimum standards. Other positive developments include the following:

- Government has opened doors to development partners, CSOs, faith-based organisations, the private sector and individuals to partner with it to improve prison conditions and police cells. For instance, the Law Society of Zimbabwe mobilised resources for the refurbishment of police cells at one of the suburban police stations whose conditions had been condemned by the Supreme Court. Many other police cells have been refurbished following the establishment of a committee to study the conditions of prison and police cells, whose recommendations on improving the

conditions are currently being implemented. Government has also been receiving assistance from the International Committee of the Red Cross.

- Government has increased its budgetary allocation to the Zimbabwe Prisons and Correctional Service. It is also promoting self-sufficiency at prisons e.g. through increased food production at prison farms.
- Efforts to decongest prisons are on-going. These include the increased imposition of non-custodial sentences such as community service, pre-trial diversion and granting occasional amnesties to certain categories of serving prisoners.
- While Government's position is that children of serving mothers should not accompany their mothers to prison, there are certain situations when this is unavoidable. In the best interests of the child, Government has gazetted a dietary scale for children of serving mothers to provide better nutrition.
- Training for prison officers on human rights is on-going and a training manual has been developed.
- Prison visits by members of the JSC (e.g. magistrates and judges) and the ZHRC are on-going (the latter has developed a tool for this purpose). Some civil society partners, such as the Legal Resources Foundation, also undertake prison visits and interview inmates and where possible assist with bail applications to avoid lengthy remands.

## **12. Rule of law**

98. Training of law enforcement agents on law enforcement-related issues, including the rule of law, is on-going. Recent efforts to enhance the capacity of law enforcement agents include the following:

- The ZRP has trained over 30 000 police officers on human rights since January 2014.
- From 2012 to 2015, a total of 590 officers of the Zimbabwe Prisons and Correctional Services across the country have been trained on human rights, including on administration of justice and the rule of law. Of the 590 trained, 398 officers were specifically trained on administration of justice.
- Government undertook training of law enforcement agents in International Labour Standards with particular focus on the ILO No. 8 Convention relating to human rights in the workplace.

## **13. Trafficking in persons**

99. Following the enactment of the Trafficking in Persons Act, an Inter-Ministerial Committee on Trafficking was established for the purposes of monitoring and reporting on the implementation of the National Plan of Action on anti-trafficking. The Committee is tasked with ensuring that Government adopts or complies with international and regional developments and standards in the prevention and combating of trafficking in persons.

100. As noted in the Mid-Term Report, Government is conducting anti-trafficking awareness campaigns in partnership with stakeholders.

101. Where there is information pointing to trafficking, Government is taking measures to investigate, prosecute and/or repatriate victims. For example, Government has been investigating and where appropriate charging persons allegedly involved in the trafficking of several women and securing their repatriation.

#### 14. Persons with disabilities

102. The Constitution provides that the State must take appropriate measures, within the limits of the resources available to it, to ensure that persons with disabilities realise their full mental and physical potential, including measures to:

- enable them to become self-reliant;
- enable them to live with their families and participate in social, creative or recreational activities;
- protect them from all forms of exploitation and abuse;
- give them access to medical, psychological and functional treatment;
- provide special facilities for their education; and
- provide State-funded education and training where they need it (section 83).

##### a. Rehabilitation

103. In tandem with the UNCRPD's general principle of promotion of the development of assistive devices to allow for accessibility of the environment to people with disabilities, health service and rehabilitation centres are producing cheaper assistive technologies. Rehabilitation centres also have provision for assessment for referral to specialist services. Persons with disabilities are also capacitated on different life skills to enable them to become self-reliant. Infrastructure in institutions is being modified to accommodate the safe movement of persons with disabilities. Government is refurbishing rehabilitation villages and updating treatment equipment at all levels of care in order to improve the quality of care and increase accessibility to services.

##### b. Participation in social, creative or recreational activities

104. The Zimbabwe National Paralympic Games were introduced as a national strategy to create opportunities for sport and recreation for persons with disabilities throughout the country. The Games are held annually and facilitate life skills education, selection of talented athletes and further development and exposure for high performance programmes.

105. Government, through the National Arts Council of Zimbabwe (NACZ) and the National Gallery of Zimbabwe, is engaged in a number of activities that ensure full participation of persons with disabilities.

##### c. Protection from all forms of abuse or exploitation

106. In terms of the Trafficking in Persons Act, the crime of trafficking in persons shall be considered to be committed in aggravating circumstances if the trafficked person is a child or a person with a disability (section 3(3)(a)).

107. Government has embarked on a programme to train public officers on sign language to enable the officers to communicate with persons with hearing impairment.

108. Both public and private media (the national broadcaster and public press) allocate space for programmes and stories that address issues of disability through programming main items such as news that have captions and translation to sign language. Action Power is an example of a programme that is broadcast in sign language and addresses issues of disability.

*d. Access to medical, psychological and functional treatment*

109. Persons with disabilities are a vulnerable group who are entitled to receive health care services without discrimination. Prevention of disabilities is Government's priority and this is achieved through:

(a) the free user policy for pregnant women to allow safe pregnancy and delivery to ensure no complications arise which can affect the baby before and after delivery;

(b) monitoring of newly born babies to identify those at risk for purposes of follow-up and to intervene appropriately;

(c) the Expanded Programme on Immunisation to ensure children will not suffer from preventable disabilities.

*e. Treatment and rehabilitation*

110. Persons with disabilities benefit from the following:

(a) Receiving free of charge devices such as hearing aids, crutches and wheelchairs;

(b) Capacitating them with life skills through appropriate occupational therapy and recreational therapy;

(c) Medical or health assessment and appropriate referral. Depending on the type of disability, physiotherapy is offered;

(d) Parents or guardians receive training on how to care for their children. Counselling is done for the parents or guardians to understand the condition of the child.

*f. Inclusive education*

111. The Constitution provides for the right of every person not to be treated in an unfairly discriminatory manner on grounds that include disability (section 56(3)). The Education Act [*Chapter 25:04*], which is currently being aligned to the Constitution, also has a non-discrimination provision.

112. The new education curriculum highlights inclusivity among its major principles, placing emphasis on an education system that takes into account and addresses the different learners' needs and abilities without disadvantaging any group or individual and taking into cognisance the full range of learner diversity.

113. While special schools for learners with disabilities continue to exist, the Government's contemporary thrust is to create an all-inclusive school system that accommodates learners with disabilities. This is being done through, for example, implementing the Child Friendly Schools concept where school structures are constructed taking cognisance of the needs of learners with disabilities. For instance, resource units are opened in schools, assistive devices are provided and schools are made accessible to every child through construction of ramps and toilets with rails.

114. Evidence has shown that when attitudinal factors are addressed, there are less incidences of discrimination. Therefore, Government has sustained capacity building of teachers on inclusive learning in its in-service training for school heads and teachers on the principles and practice of inclusive education. Sensitisation activities with School Development Committees and the School Parenting Community as a whole have also yielded good results in the protection of children with disabilities against discrimination.

115. To encourage the enrolment of students with disabilities at higher levels of education, students with disabilities in all higher and tertiary institutions are given preference when it comes to the Government Cadetship Scheme for assisting students from vulnerable families with payment of fees. It is Government's policy that students with disabilities, including those with albinism, get 50% additional funding over and above what students without disabilities get. It is also Government's policy that assistants must be provided for visually impaired lecturers.

g. *BEAM*

116. As reported above, this scheme supports the enrolment and retention of disadvantaged children in schools at primary and secondary level. Under the scheme, 10% of the total allocation for each year is set aside for children with disabilities enrolled in schools and this allocation may be reviewed upwards according to demand.

## B. Challenges

117. Zimbabwe faces economic challenges due to the continued imposition of economic sanctions by some Western countries, which has hampered the implementation and realisation of human rights, especially socio-economic rights. In addition, despite adherence to the minimum standards, Zimbabwe still faces hurdles in selling its diamonds on the international markets. This has resulted in depressed revenue inflows into Government coffers thus making it difficult for Government to allocate adequate resources towards the realisation of human rights.

118. Limited fiscal space has affected Government's efforts to capacitate the Independent Commissions, thereby hampering their effective operations, and to improve prison conditions and police cells. The growing prison population has compounded the problem.

119. Resource constraints have limited the Government's ability to rehabilitate and expand the capacity of infrastructure in areas that include water and sanitation services, power generation and the road network. Government has also been constrained with regard to the following social services:

- (a) provision of basic services in the rural areas;
- (b) provision of education to the under-privileged. For example, Government has been unable to fully fund BEAM on its own and has had to rely on development partners for support, which is not sustainable, and in some remote areas learners still have to travel long distances to the nearest school;
- (c) provision of health care, especially for the vulnerable groups. Schemes to provide free or subsidised health care for these groups, such as AMTO, are under-funded and Government also has to rely on the support of development partners;
- (d) The number of orphans and vulnerable children has outweighed the intervention strategies in the National Action Plan II.

120. Government cannot pay competitive salaries which has resulted in skills flight in the region and overseas.

121. Corruption in some Government agencies continues to hamper development.

122. The effects of climate change and the El Nino effect. For example, poor rains affected the 2015-2016 farming season and this has left many Zimbabweans vulnerable and in need of food aid. Government has shifted priority to mobilising resources to ameliorate the situation so that no one starves.

## **VI. Key national priorities, initiatives and commitments that Zimbabwe has undertaken and intends to undertake to overcome these challenges and improve human rights situations on the ground**

123. Government is giving priority to and scaling up efforts to implement Zim-ASSET in order to revive and grow the economy in a sustainable manner with the aim of, inter alia, economically empowering the people and eradicating poverty. It is hoped that implementation of Zim-ASSET will result in the country benefiting more from its natural resources, such as minerals, and contribute to increased revenue.

124. Government continues to engage key international and multi-lateral institutions such as the World Bank, International Monetary Fund, European Union, African Development Bank and others so that they resume support for the country. It has also been engaging the West to lift economic sanctions.

125. As reported above, Government is taking measures to make agriculture viable and productive and to ensure food security, for example providing agricultural implements and inputs to new farmers and negotiating with financial institutions to make permits and leases issued to the farmers bankable so that the farmers can access loans. To address climate change challenges, Government is, among other measures, promoting irrigation. For example, under the Brazil Food for Africa Programme, Government has rolled out irrigation projects in each of the country's provinces with the exception of the two metropolitan provinces.

126. Despite facing economic challenges, Government remains committed to making funding mechanisms in the social services sector such as BEAM and AMTO viable. It is engaging development partners to continue supporting these mechanisms as well as others such as the Health Development Fund and the Child Protection Fund while it pursues ways of fully funding them from its own resources. For example, Government established the National AIDS Trust Fund, which is funded through the AIDS Levy, to cater for those living with HIV and AIDS (about 1.4 million people are living with HIV and AIDS, of which about 800,000 are receiving treatment). Government plans to introduce a national health insurance scheme to ensure that all persons, especially the vulnerable, can have access to proper health care.

127. Government continues to prioritise the education and health ministries and they get the highest budgetary allocations.

128. Through the JLOS Government will step up efforts to improve prison conditions and police cells and to decongest prisons. It will continue creating an enabling environment for stakeholders to support and complement its efforts.

129. Government recently embarked on the Ease of Doing Business project which is being implemented in partnership with the World Bank. The object of the project is to improve Zimbabwe's ranking as a sound investment destination by implementing various reforms in specific fields such as starting a business, protecting investors and enforcing contracts.

130. Furthermore, Government is implementing the e-government programme, which focuses on modernizing government systems and processes through the use of information and communication technologies. For instance, an online inter-agency company registration form has been developed and this will ensure that the time taken to register a company is shortened.

## **VII. Expectations in terms of capacity-building and requests for technical assistance and support received**

131. The GoZ continues to make efforts to mobilise resources and technical support to enhance its capacity to fulfill its human rights obligations.

132. Government has been receiving financial and technical support from the UNCT under the ZUNDAF. For instance, UNDP has provided financial and technical support to Government through the Ministry of Justice, Legal and Parliamentary Affairs to implement a project on enhancing justice delivery and human rights for all that encompasses the activities of the JLOS, UPR National Steering Committee and the IMC, among Government institutions.

133. The GoZ would benefit from the continued financial and technical support of the UNCT in the area of the promotion and protection of human rights and capacity development, especially with regard the preparation of State party reports, the UPR follow up as well as follow up to the recommendations of the treaty bodies and the special procedures.

134. Government expects international support in the lobbying for the removal of economic sanctions.

### **Concluding remarks**

135. Zimbabwe remains committed to promoting, respecting, protecting and fulfilling the fundamental rights and freedoms of its people and will strive to implement the recommendations accepted in line with its international obligations.

136. The GoZ is grateful for the financial and technical support that it has continued to receive from the UNCT in the UPR process.

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