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UNIVERSAL PERIODIC REVIEW ZIMBABWE

SECOND CYCLE 2016

United Nations Country Team (UNCT) Submission¹

¹ Contributing agencies- ILO, ITU, RCO, UNAIDS, UNICEF, UNDP, UNESCO, UNFPA, UNHCR, UNWomen, WFP, WHO and World Bank.

SECTION 1: BACKGROUND & LEGAL FRAMEWORK

I. Background

1. The report provides information on the implementation of UPR recommendations accepted by the Government of Zimbabwe (GoZ), UNCT support towards recommendations and emerging issues since the last review.

II. Methodology of Preparing the Report

2. The report is the combined submission of UN agencies which form the UNCT UPR Group, a standing technical group supporting the UPR process.

III. Constitutional and Legislative Framework

3. The UNCT recognises and applauds the efforts of Zimbabwe in adopting a new Constitution in May 2013 founded on principles that include rule of law and fundamental human rights. It includes an expanded bill of rights which recognises economic, social, cultural and environmental rights.² Courts are granted the power to consider international law, treaties and conventions ratified by Zimbabwe. Progressive provisions promote inter alia, gender equality, non-discrimination, safe labour practices³ and prohibit torture.⁴ UNCT commends the repeal of the claw-back clause in the previous Constitution which permitted discrimination on the basis of customary and personal law.
4. Zimbabwe is currently in the process of reviewing and aligning laws to the Constitution. New laws have been enacted such as the National Prosecuting Authority Act,⁵ the Electoral Amendment Act⁶ and the Zimbabwe Gender Commission Act.⁷ However, the process of alignment has been slow and conducted in a piecemeal manner. At least 82 pieces of legislation relating to inter alia, family laws women's rights, and non-discrimination in the context of HIV/AIDS⁸ are still to be aligned. The General Laws Amendment (GLA) Bill, which will make minor and substantive amendments to 126 Acts was gazetted in May 2015 and is still before Parliament. The GLA includes an amendment to the Electoral Act which confers the function of voter registration and voter's roll to the Zimbabwe Electoral Commission (ZEC) in line with the 2013 Constitution. ZEC has been seriously considering the introduction of a biometric voter registration system.

² Environmental rights (section 73), Right to education (section 75), right to healthcare (section 76), right to food and water (section 77) and marriage rights (section 78)

³ Section 65 right to equal remuneration for men and women for similar work

⁴ Section 53 Constitution of Zimbabwe

⁵ Act 5 2014 which provides for the establishment of the National Prosecuting Authority Board, its functions and the appointment of the National Director of Public Prosecutions

⁶ Act 6 of 2014

⁷ Provides for the establishment of the Zimbabwe Gender Commission whose functions include the investigation of and making recommendations on the removal of barriers to the attainment of full gender equality

⁸ Provisions that relate to sexual offences

5. There is need to ensure substantive alignment of legislation in line with human rights standards set out in the Constitution and international law. The Inter-Ministerial Taskforce established to coordinate alignment efforts is significantly under-funded and requires additional technical assistance to fully undertake its mandate.
6. **UNCT recommends acceleration of the process and increased substantive alignment of laws in line with the Constitution. GoZ should consider adopting a holistic approach to electoral reform.**

IV. Human Rights Institutional and Policy Measures

a) Independent Institutions and Commissions

7. Technical and financial support was provided by UNCT to Independent Commissions that have a human rights- related mandate.⁹ Commissioners of the Zimbabwe Gender Commission were sworn in June 2015. The Zimbabwe Gender Commission Act¹⁰ was gazetted in February 2016. The Act provides for the establishment of the Commission to inter alia, investigate and make recommendations on the removal of barriers to the attainment of full gender equality. **Zimbabwe is encouraged to accelerate efforts to ensure the full operationalization of the Zimbabwe Gender Commission.**
8. UNCT commends the allocation of budget sub-votes from the Consolidate Revenue Fund to Independent Commissions as set out in the Appropriation (2016) Act (2015).¹¹ However, the amount allocated (USD\$11,958,000) to Independent Commissions for 2016 is only 0.35% of the total budget.¹² **UNCT recommends continued provision of adequate financial, human and technical capacity for independent commissions to carry out their mandates effectively.**
9. The Zimbabwe Human Rights Commission (ZHRC) benefited from UNCT supported institutional and operational strengthening. The Commission monitored the March 2013 Referendum on the new Constitution, harmonised elections in July 2013 and handled 243 human rights and mal-administration cases.¹³ Further support enabled the ZHRC to conduct ten investigative missions to vulnerable communities focusing on internally displaced persons, places of detentions, health facilities and mental institutions. However, the ZHRC remains under-resourced and understaffed which negatively impacts its operational performance.¹⁴

⁹ Zimbabwe Human Rights Commission (ZHRC), the Zimbabwe Electoral Commission (ZEC), the Zimbabwe Anti-Corruption Commission (ZACC), the Zimbabwe Media Commission (ZMC) and most recently the Zimbabwe Gender Commission and National Peace and Reconciliation Commission (NPRC)

¹⁰ Zimbabwe Gender Commission Act [Chapter 10:311]

¹¹ ZHRC-USD\$1,339,000; NPRC-USD\$200,000; ZACC-USD\$1,602,000; ZEC-USD\$8,316,000; ZGC-USD\$150,000; ZMC-USD\$351,000

¹² Out of a total of USD\$3,398,128,00 [http://veritaszim.net/sites/veritas_d/files/Appropriation%20%282016%29%20Act.pdf]

¹³ Overview of the mandate and work of the Zimbabwe Human Rights Commission (ZHRC), Mr. Elasto Mugwadi, Chairman, Media Engagement Workshop, 21/10/2014 accessed at [<http://www.zhrc.org.zw/index.php/2014-07-02-07-41-38/speeches/59-media-engagement-workshop-overview-of-the-mandate-and-work-of-the-zimbabwe-human-rights-commission-zhrc>]

¹⁴ The Commission is still in dialogue with the GoZ to operationalise terms & conditions of staff and Commissioners.

10. The National Peace and Reconciliation Commission (NPRC) was established in 2015. The draft NPRC Bill is before Parliament. As a newly established institution, the NPRC will require robust capacity building support guided by principles of national ownership, independence, transparency and inclusiveness to deliver its mandate. This includes capacity of the NPRC and its Secretariat, in consultation with key stakeholders, to design and implement a national framework for healing and reconciliation in Zimbabwe.
11. **UNCT recommends increased efforts to strengthen the independence of the ZHRC in carrying out its monitoring mandate in places of detention, ‘human rights hot spots’ and remote areas.**
12. **UNCT recommends the operationalization of the NPRC and its Secretariat in light of its 10 year sunset clause. UNCT further recommends the development and implementation of a sound resource mobilisation and partnership strategy for the NPRC to effectively implement its Constitutional mandate.**
13. **UNCT encourages continued collaboration and co-operation between independent Commissions for the increased promotion and protection of human rights in Zimbabwe.**
14. **UNCT further encourages the speedy enactment of legislation and establishment of an independent complaints mechanism to receive and investigate misconduct by security personnel as provided for in Section 210 of the Constitution.¹⁵**
15. **Zimbabwe is urged to take practical measures to guarantee the independence of the office of the Prosecutor-General as enshrined in section 260 of the Constitution.**

b) Constitutional Court

16. As the highest court in all constitutional matters¹⁶, the Constitutional Court (CC) received 81 cases in 2013 and 180 applications since 2014. By the end of 2015, 130 applications had been cleared with a backlog of 146 applications.¹⁷ In instances where the alignment of laws has been slow, the CC has proved a complimentary human rights protection tool by declaring some provisions of current laws as unconstitutional. The CC¹⁸ declared section 22 of the Marriage Act and any law, practice or custom authorizing marriage under eighteen years as unconstitutional.¹⁹

¹⁵ In *Rashid Mahiya v Minister of Justice & Others: CCZ 42/15*, the applicant instituted proceedings seeking a declaration to the effect that the Respondent’s actions are unconstitutional in so far as they relate to the failure to enact the law envisaged by Section 210. The matter is still before the Constitutional Court; accessed at [<http://www.veritaszim.net/node/1550>]

¹⁶ Section 167 of the Constitution of Zimbabwe, 2013

¹⁷ Chief Justice Chidyausiku, Speech at the official opening of the 2016 Legal year, accessed at [<http://www.zimlil.org/zw/blog/JSC%202016%20OPENING%20-%20GGC%20CJ%20SPEECH.pdf>]

¹⁸ In *Mudzuru & Another v Ministry of Justice, Legal and Parliamentary Affairs (N.O) & Others (CCZ 79/14)* 20 January 2016

¹⁹ To the extent that it is inconsistent with section 78(1) of the Constitution. The ruling is in line with recommendations by treaty bodies [Human Rights Committee para.214 A/53/40 1998] to Zimbabwe that early marriage, and the statutory difference in the minimum age of girls and boys for marriage, should be prohibited by law.

c) Policy measures

17. There is no specific national human rights policy framework however guidance is provided on thematic issues by a myriad of policies, primary of which is the Zimbabwe Agenda for Sustainable Socio-Economic Transformation (ZIMASSET) 2013-2018.
18. The National Plan of Action on the Implementation of UPR Recommendations developed by the Ministry of Justice provides further guidance on human rights obligations from the UPR mechanism.

SECTION 2: COOPERATION WITH HUMAN RIGHTS MECHANISMS

V. Co-operation with Treaty Bodies, Special Procedures and ILO supervisory mechanisms

19. UNCT commends Zimbabwe for its efforts with regards to reporting under the UPR process. Zimbabwe prepared a Mid-Term report on the progress in 2014 on the implementation of recommendations. UNCT supported GoZ to conduct stakeholder consultations in 5 provinces across the country. Feedback from the Consultations will form the baseline for the national second cycle report. Further support was provided for the establishment of the National UPR Steering Committee.²⁰
20. The GoZ submitted its second periodic Report to the Committee on the Rights of the Child (CoRC) in 2011 with considerable delay.²¹ Zimbabwe had its dialogue with the CoRC the Child on 19 January 2016.²² Concluding observations were issued on the 4th of February 2016.
21. The sixth periodic CEDAW²³ report was due in February 2016. Preparation of the report is underway. Although progress has been made by Zimbabwe in the drafting of overdue treaty body reports, delays are noted in the process of finalising and submission thereof. The ICCPR²⁴, CESCR²⁵, CERD²⁶ and CRPD²⁷ reports are awaiting cabinet and Ministry approval respectively. This has the effect of rendering information contained in the reports outdated. **UNCT encourages the Government to take the necessary steps to ensure that reports are submitted timeously to treaty-bodies.**
22. UNCT acknowledges Zimbabwe's goodwill²⁸ and co-operation with the ILO supervisory mechanisms.²⁹ UNCT however notes that Zimbabwe has not issued a standing invitation to Special

²⁰ Chaired by the Ministry of Justice, Legal and Parliamentary Affairs

²¹ The report covered 1997-2008. The country updated the Committee on the subsequent progress made from 2009 to 2014 through its response to the List of Issues.

²² The country was represented by a delegation of 16 led by the Minister of Health and Child Care

²³ Convention on the Elimination of All Forms of Discrimination Against Women

²⁴ International Convention on Civil and Political Rights

²⁵ Convention on Economic, Social and Cultural Rights

²⁶ Convention on the Elimination of Racial Discrimination

²⁷ Convention on Rights of Persons with Disabilities

²⁸ The Government presented the Domestic Workers Recommendation, Social Protection Floors Recommendation, HIV and AIDS Recommendation, Forced Labour (Supplementary Measures) Recommendation and the Sickness Insurance Recommendation to Parliament for discussion.

²⁹ Committee on Freedom of Association & Commission of Inquiry

Procedures. **UNCT encourages Zimbabwe to cooperate fully with special procedures and mandate holders.**

VI. Ratification of Human Rights Instruments

23. Zimbabwe became a party to the CRPD and its Optional Protocol,³⁰ two CRC³¹-Optional Protocols³² and the Palermo Protocol. Conventions against torture, rights of migrant workers and Optional Protocols to the ICCPR have not been ratified nor has the Government taken adequate steps to ratify them.
24. **UNCT encourages GoZ to ratify the Convention Against Torture (CAT) and give full effect to the prohibition from torture enshrined in the Constitution.**
25. **UNCT urges Zimbabwe to utilise the legislative alignment process as an opportunity to domesticate ratified conventions.**

VII. Technical Assistance and Partnerships

26. UNCT commends the close cooperation and engagement with all stakeholders in the follow up to the UPR, including the development of a National Plan of Action. After the review, UPR Steering Committee³³ was established to inter alia, monitor the implementation of recommendations and conduct consultations for the next cycle.
27. GoZ continued to work closely with UNCT in the implementation of the Zimbabwe United Nations Assistance Framework (ZUNDAF) 2012-2015 and the development of ZUNDAF 2016-2020.
28. Technical cooperation and assistance was provided by development partners and UN agencies in compilation and presentation of state party reports.

SECTION 3: IMPLEMENTATION MEASURES

VIII. Equality and Non-discrimination

29. Steps have been taken to promote equality and non-discrimination. Provisions in the 2013 Constitution promote participation of women in political and socio-economic spheres. A quota system was introduced to increase representation of women in Parliament and all public administration tiers of Government. Nonetheless, structural and legislative barriers still exist for women in the labour market. Maternity benefits remain out of reach for women in the informal and

³⁰ Acceded in 2013

³¹ Convention on the Rights of the Child

³² Ratified Protocol on Sale of Children, Child Prostitution and Child Pornography in 2013; acceded to the Protocol on the involvement of Children in Armed Conflict in 2012

³³ Ministry of Justice Legal and Parliamentary Affairs; Judicial Service Commission, Zimbabwe Prison Service, Ministry of Home Affairs, Zimbabwe Republic Police, Attorney General's Office, Law Development Commission, Legal Aid Directorate and Law based Civil Society Organisations

rural economy. In the formal economy, most employees receive medical insurance and are able to get maternity leave and cash benefits. Only 9% of women employed in the informal sector can afford medical insurance³⁴. **The GoZ should strengthen its labour inspection mechanisms in order to monitor and address challenges faced by women in the informal and rural economies.**

IX. Right to Life, Liberty, Dignity and Security of the Person

a) Death penalty

30. UNCT recognises efforts made towards the prohibition of the death penalty. An estimated 95 prisoners are still on death row.³⁵ The Constitution prohibits the death penalty as mandatory punishment. Capital punishment cannot be imposed on women and men (under 21 and above 70 at the time of the crime).³⁶ UNCT encourages the Government to speedily give effect to these Constitutional provisions. **UNCT continues to advocate for an absolute moratorium on the death penalty.**

b) Prison Conditions

31. Conditions of detention remain below international standards.³⁷ In 2015, food shortages at the Chikurubi Maximum Prison led to demonstrations by inmates. A ZHRC monitoring visit report highlighted that at the time of the riot, the prison was 69% overcrowded, with 2270 inmates.³⁸ The UN Committee on the Rights of the Child noted reports of a serious lack of nutrition and poor sanitary conditions for infants and children sharing prison cells with their mothers who are awaiting trial or serving sentences for committing various offences.³⁹ It is hoped that sector wide planning to implement projects on prison decongestion will be undertaken under the Justice, Law and Order Sector (JLOS) structure. **UNCT encourages Zimbabwe to take urgent steps to improve prison conditions and address prison decongestion. UNCT reiterates the recommendation made by the CoRC to seek alternative measures to institutional confinement for pregnant women and mothers with small children, wherever possible.**

32. Anecdotal evidence suggests that sexual violence is an emerging issue within the prison system.⁴⁰ Little or limited research has been undertaken on the nature and magnitude of the problem. Access to HIV services in prisons and places of detention has been initiated through the UN Joint Programme

³⁴ Labour Force Survey 2015

³⁵ The last execution was in 2005. Amnesty International, Zimbabwe: End the death penalty after 10 year-execution hiatus <https://www.amnesty.org/en/latest/news/2015/07/zimbabwe-end-the-death-penalty-after-10-year-execution-hiatus/>

³⁶ Section 48 of the Constitution 2013

³⁷ See Jennifer Williams and Others v Co-Ministers of Home Affairs, Commissioner General of Police and the Attorney General of Zimbabwe CCZ4/14

³⁸ ZHRC Report on the Visit to Chikurubi Maximum Prison (Male Section) on the 18th of March 2015 www.zhrc-documents/reports/19-chikurubi-visit-report-1

³⁹ United Nations Committee on the Right of the Child, Concluding observations on the second periodic report of Zimbabwe, 7 March 2016, CRC/C/ZWE/CO/2 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/044/47/PDF/G1604447.pdf?OpenElement>

⁴⁰ Evaluation of the Perpetrator Project, Integrated Support Programme for Sexual and Reproductive Health, HIV prevention and gender-based violence UNFPA Zimbabwe, 2015

on HIV/AIDS and collaboration with the National AIDS Council. **Further research would promote interventions required to effectively address pertinent health issues among inmates.**

c) Security of Persons

33. Itai Dzamara, a freelance journalist⁴¹ was allegedly abducted in March 2015 by ‘persons unknown’.⁴² The High Court issued an order directing authorities to investigate, establish his whereabouts and update his family and lawyers on progress.⁴³ Almost a year later, there seems to be little progress in establishing his whereabouts. **GoZ is encouraged to take all necessary measures to actively and seriously investigate his whereabouts. Zimbabwe is further urged to ratify the Convention for the Protection of All Persons from Enforced Disappearance.**

X. Administration of Justice, Corruption & Rule of Law

34. A sector wide approach to justice delivery was established through JLOS. The goal is to enhance access to justice, especially to vulnerable people. Communication and coordination in the sector has increased and contributed to addressing barriers in access to justice.
35. Zimbabwe piloted the Pre-trial Diversion Programme targeting children in conflict with the law. A Pre-Trial Department has been established in the Ministry of Justice. **UNCT encourages the GoZ to provide funding for the roll-out of pre-trial diversion programs nationally.**
36. Provision of legal aid remains a challenge with services not decentralized.⁴⁴ This is compounded by adverse reports of corruption in the justice delivery sector. **UNCT encourages Zimbabwe to continue to take appropriate legal and administrative measures to bring justice for vulnerable groups living in remote and rural areas.**
37. Gaps in the management of and accountability for public resources in Government Ministries and public entities were identified in the Auditor-General’s annual reports. Further, the State Procurement Board (SPB) remains susceptible to political manipulation and corruption. There have been efforts to develop a Public Sector Corporate Governance Bill to monitor activities of performance of boards and assess public entities’ compliance.⁴⁵ **Further efforts are needed to decentralise the procurement of goods and services to allow the SPB to perform a regulatory function of procurement. Zimbabwe should continue efforts to ensure rule of law for national development and comprehensively address corruption in all sectors.**

⁴¹ Dzamara had been holding peaceful demonstrations at Africa Unity Square (Occupy Africa Unity Campaign) since 2014

⁴²Statement by the Zimbabwe Human Rights Commission ZHRC accessed at [<http://www.zhrc.org.zw/index.php/2014-07-02-07-41-38/press-releases/90-press-statement-by-the-zimbabwe-human-rights-commission-zhrc-on-the-alleged-abduction-of-a-freelance-journalist-and-human-rights-activist-itai-dzamara>]

⁴³ Sheffra Dzamara v Minister of Home Affairs N.O, Minister of State Security and Commissioner General of the Police N.O and Director General of the Central Intelligence Organisation (Urgent Chamber Application for a Habeous Corpus) HC2211/15

⁴⁴ Legal Aid Directorate (LAD) Capacity Assessment

⁴⁵ Parliament of Zimbabwe Senate question Time, Answer by Minister of Finance and Economic Development on Measures to curb abuse of public funds, 24/02/2016 accessed at [<http://www.veritaszim.net/node/1620>]

XI. Marriage & Family Life

38. Three marriage regimes currently exist in Zimbabwe, with different consequences for women upon divorce or death of one of the spouses. The position of women in unregistered customary law unions is at greatest disadvantage. **UNCT recommends the harmonisation of marriages laws to create one marriage regime.**
39. According the Multiple Indicator Cluster Survey (MICS) Study 2014 conducted by ZIMSTATS, 32.8% of women aged 20-49 were married before the age of 18. The Descriptive Youth and Child Atlas indicates that child marriage prevalence is higher in rural areas (27.4%) than urban areas (24%). The ruling by the Constitutional Court in January 2016⁴⁶ that outlawed child marriages is a landmark judgement, positive development and important first step for the protection of children. **There is need to bring the different pieces of legislation⁴⁷ into alignment so that the marriage law regime and criminal code all work to regulate and proscribe child marriages. Greater advocacy is needed to raise awareness on the ruling and change social, religious and cultural norms that drive the practice of child marriages.**
40. UNCT commends Zimbabwe for developing National Action Plans on ending rape and child sexual abuse. Concern remains regarding the prevalence of sexual exploitation and abuse against girls, orphans, children with disabilities and children living in poverty. The Anti-Domestic Violence Council (ADVC) which has a mandate to coordinate and lead national efforts in the fight against Gender Based Violence (GBV) remains severely under resourced. Greater effort is needed to ensure that it is independent and adequately resourced.

XII. Freedom of Expression, Association, Information & Communication

41. The Government has taken steps to register more media houses. Stakeholders⁴⁸ continue to advocate for more community radio stations. Commemorations of World Radio Day and World Press Freedom Day are used as advocacy platforms for reforms in this sector.
42. Arbitrary implementation of provisions of the legal framework for police clearance for public gatherings; the mandatory registration of journalists and media services continue to remain a hinderance towards the freedom of expression and assembly.⁴⁹ The CoRC highlighted restrictions on children's right to freedom of association and peaceful assembly, and reports that the Public Order and Security Act was invoked by authorities to deny children permission to have marches in

⁴⁶ Mudzuru and Tsopodzi v Min of Justice, Legal and Parliamentary Affairs, Minister of Women Affairs Gender and Community Development and the Attorney General of Zimbabwe CCZ12/2015

⁴⁷ The Marriages Act section 22(1) sets a different minimum age for girls (16) and boys (18) with the age for marriages. The Customary Marriages Act does not set a minimum age for marriages making it difficult to prevent child marriages. Under section 3(1)(1) of the Domestic Violence Act child marriages is defined as an offence.

⁴⁸ Through the Zimbabwe Community Radio Association (ZACRAS)

⁴⁹ Public Order and Security Act (POSA), the Access to Information and Protection of Privacy Act and the Criminal Law (Codification and Reform) Act (CLCRA)

commemoration of international children's day. **Zimbabwe is urged to comprehensively review its legal framework and remove provisions that restrict these freedoms.**

43. There have been a number of policy and legal reforms improving access to communication. A draft ICT policy, draft cyber security policy, draft Electronic Commerce & eTransaction bills, draft Data Protection Bill and draft Cybercrime & Cyber Security Bill are before Cabinet and Parliament. Statistics indicate that mobile voice and broadband service coverage is at 100% and 60% respectively by population.⁵⁰ More than 98% of the population has a mobile phone and internet penetration is at 46.6%.

XIII. Right to Work, Just and Favourable Conditions of Work

44. Support was provided to the Tripartite Negotiating Forum (TNF)⁵¹ under the Decent Work Country Programme. **Zimbabwe should consider creating legislation to institutionalise the TNF for broader socio-economic dialogue. UNCT further recommends continued engagement with the ILO for technical support on the labour law reform process.**⁵²
45. Zimbabwe has made progress in trying to address child labour. The Labour Amendment Act of 2015 outlaws child labour under the age of 16. Gaps still exist in creating measures to ensure that children are not involved in hazardous work (in agricultural, forestry, hunting or fishing sectors) where they work long hours with low wages.⁵³
46. UNCT recommends that Zimbabwe should:
- ensure the effective harmonization of the Constitutional prohibition of exploitative and hazardous child labour in all legislation, policy and practice, and establish a list of hazardous work in which children should not be involved.
 - ensure the implementation of the minimum age of employment, including through the use of appropriately trained labour inspectors and the application of the high penalties for those who exploit children.
 - take steps to fully harmonise relevant legislative texts, and particularly the Labour Act, the Public Service Act and the Public Order and Security Act, with Conventions Nos 87 and 98, as requested by the ILO supervisory bodies.⁵⁴
 - take measures to address the socioeconomic factors contributing to child labour and scale up the implementation of social welfare programmes to prevent children engaging in economic activities, including creation of employment for adults.

⁵⁰ Postal and Telecommunications Regulatory Authority of Zimbabwe (POTRAZ) Abridged Postal and Telecommunications Sector Performance Report Third Quarter 2015 accessed at [http://www.potraz.gov.zw/images/documents/3rd_Quarter_2015.pdf]

⁵¹ A platform for social dialogue between government, workers' and employers' organisations

⁵² ILO Decent Work country Programme (2012 – 2015) accessed at [<http://www.ilo.org/public/english/bureau/program/dwcp/download/zimbabwe2.pdf>]

⁵³ The Child Labour Report 2014, ZimStats accessed at [http://www.zimstat.co.zw/sites/default/files/img/publications/Labour/Child_Labour_Report_2015.pdf]

⁵⁴ Ibid

XIV. Right to Food, Water, Sanitation and Hygiene

47. Zimbabwe faces significant food insecurity in 2016. Estimates⁵⁵ suggest that the number of food insecure households will reach 2.8 million (30% of the rural population) in April 2016. The GoZ declared the 2016/2017 agricultural season a national disaster due to the effects of the El Nino and released a national/international appeal affecting all sectors including food assistance. Water resource management for most of the catchments is under strain from the effects of El Nino. As such, prevailing reduced rainfall is likely to have far reaching implications on water supply for human consumption, livestock and disruptions to hydropower production.⁵⁶ Food security faces further challenges due to extensive use of water-intensive crops, untapped market linkages, and nutrition.
48. A food and nutrition policy was launched in 2013. The Multiple Indicator Cluster Survey (MICS) shows a downward trend in stunting of children under five years from 35% in 2009 to 27.6% in 2014. Through the Health Transition Fund, support was provided to scale up critical high-impact evidenced based nutrition interventions across the country. This led to improvements in nutrition service delivery.⁵⁷ Zimbabwe could further benefit from the establishment of a school feeding policy and strategy. The implementation of school feeding programmes guided by a well-accentuated policy will account for nutritious access to food and strengthen local small-holder farmer markets through a system of Home Grown School Feeding (HGSF) practices.
49. **Consideration should be given to higher productivity of land; planting of a higher quantity of drought-resistant crops; engagement with the private sector to establish market linkages and strengthening the development of Zimbabwe's local procurement system.**
50. UNCT supported provision of food, agriculture and the rehabilitation of existing WASH infrastructure that had become non-functional. Support was also provided to the most disadvantaged households. In the 10 rural districts most affected by food insecurity, it is estimated that 375,000 do not have access to safe water. An additional 130,000 are at risk due to seasonal water sources.⁵⁸ **Capacity should be enhanced in areas of social protection to better deliver food assistance and address malnutrition. Improved water management and a concerted effort in the rehabilitation of irrigation schemes are crucial in resilience building and should be addressed to reduce food insecurity levels. UNCT urges development partners to continue providing technical and financial support in this area.**

⁵⁵ Zimbabwe Vulnerability Assessment Committee (ZimVAC) Rapid Rural Livelihood Assessment, January, 2016

⁵⁶ Highest insecurity recorded in Buhera, Umguza, Mbire, Umzingwane, Zvishavane, Mwenezi, Binga, Mudzi, Kariba, Gokwe North. See ZimVAC Monitoring Report, January 2016.

⁵⁷ Statistics (2009-2014) indicate improvement in exclusive breastfeeding under 6 months from 26% to 41%; early initiation of breast feeding from 51% to 59%. Vitamin A supplementation to children U5 increased from 22.6 to 42.4%. An increased number of health facilities (93%) have been providing treatment of acute malnutrition across the country.

⁵⁸ Ministry of Environment, Water and Climate Change-Drought response multi-stakeholder consultative meeting January 2016 accessed at [<http://www.zw.one.un.org/newsroom/news/preparedness-intensifies-response-worsening-drought-0>]

XV. Right to Health

51. The right to health is enshrined in the Zimbabwe constitution. Life expectancy in Zimbabwe improved to 56 (men) years and 61 (women) years in 2013. However, the achievement of Universal Health Coverage requires *inter alia*, increased financial resources to the health sector. The Abuja Declaration advocates that countries should allocate at least 15% of GDP to the Health Sector. Currently, total the health allocation in 2016 is 9.73% (USD\$330,789,000) of total Government allocation. This translates to approximately USD\$28 per capita (compared to WHO's recommendation of USD\$80). Hospitals budget bid for 2016 amounted to \$121.4 million but they received only \$11.7 million which is 10% of their requirement. Over 90% of all medical supplies in the country are provided by development partners and this makes the health sector vulnerable if funding ceases. **The GoZ is encouraged to increase its financial contribution to the Health Sector.**

a) Results Based Financing

52. The GoZ introduced innovations in Results-Based Financing (RBF) for rural clinics whose evaluation involves the analysis of disaggregated data on maternal mortality and morbidity. To date the program has covered 4.5 million people (approximately 33% of the national population). Under the program, user fees are partially removed for a defined set of services in participating facilities. RBF and abolishment of user fees⁵⁹ resulted in uptake of Anti-Natal Clinic services and an increase in health facility deliveries.⁶⁰ **Zimbabwe should consider broadening services which can be accessed free of user fees to include a wider range of communicable and non-communicable diseases, including through the use of innovative financing mechanisms.**

b) Efforts to combat HIV/AIDS

53. There has been a reduction in the incidence of HIV from 1.37% in 2009 down to 0.92 in 2014 and the HIV prevalence has stabilized around 15%.⁶¹ Zimbabwe scaled up access to anti-retroviral therapy (ART) with a total of 854,581 adults and children with advanced HIV received antiretroviral therapy as of September 2015. These achievements were supported through the Global Fund, PEPFAR and other donors. The Governments AIDS Levy has been instrumental in contribution of local resources to the AIDS response, through the National AIDS Trust Fund.

54. Under the Prevention of Mother to Child Transmission (PMTCT) programme, a decrease in the rate of transmission (6.7%) has been noted as of 2014.⁶² It is estimated that the scale up of ART since 2009 has saved over 290,000 lives in the country by averting deaths due to AIDS-related causes.

⁵⁹ Targeted at pregnant women and children under five in 42 districts from 2011-2015

⁶⁰ Herderschee, Johannes. 2016. Zimbabwe Economic Update - Changing growth patterns: improving health outcomes. Zimbabwe economic update; issue no. 1. Washington, D.C.: World Bank Group

⁶¹ Global AIDS Response Zimbabwe Country Progress Reports 2014 and 2015

http://www.unaids.org/sites/default/files/country/documents/ZWE_narrative_report_2014.pdf

http://www.unaids.org/sites/default/files/country/documents/ZWE_narrative_report_2015.pdf

⁶² Data compiled from WHO accessed at [<http://apps.who.int/gho/data/node.cco.ki-ZWE?lang=en>]

AIDS related deaths declined to 38,616 in 2014 compared to 134,247 in 2004. With the rapid scale up of ART programmes, the prevention of HIV drug resistance becomes of paramount importance.

55. UNCT through the UN Joint Team on HIV/AIDS provides assistance to the GoZ for implementing national commitments under the Political Declaration on HIV (2011).⁶³ Zimbabwe's commitment to equitable access to HIV services remains irreversible. National HIV response institutions have been willing to address issues of public health and universal access to services for Men having Sex with Men, and women engaged in commercial sex. However, there is limited strategically important information available on people who use drugs and this community is not recognised as a part of key populations in HIV response of the country. Overall, adolescents, young people and women continue to be predominantly affected by HIV epidemic. **GoZ should accelerate implementation of programmes that create stronger linkages between HIV/AIDS prevention and provision of reproductive health and gender based violence services.**

XVI. Right to Education

56. The right to education including free and compulsory basic education is enshrined in the Constitution. While significant progress has been made in this area, concern remains that primary education is not free due to imposed tuition fees and hidden costs.⁶⁴
57. UNCT provided support for the review of the Education Act, which inter alia, seeks to address the issue of corporal punishment to align it to the Convention on the Rights of the Child (CRC) as well as the Constitution.⁶⁵ In its concluding observations, the Committee on the Rights of the Child raised concern that corporal punishment remains legal and widely practised in the family, schools and other settings and that Government policy allows administration of 'reasonable or moderate corporal punishment.' There is need to build the capacity of teachers and school authorities in the education system on alternatives to corporal punishment. The use of corporal punishment as a judicial sentence for juveniles has been challenged before the Constitutional Court.⁶⁶
58. Additional support was provided for the curriculum review process and development of new syllabi. The new curriculum is progressive in addressing issues of HIV and AIDS and adolescent fertility. Through the School Improvement Grants Programme⁶⁷, the cost of education for the most disadvantaged communities has been reduced. The grant is targeted at orphans and vulnerable children in the poorest rural primary and secondary schools. A Technical and Vocational Education and Training (TVET) policy that expands access to higher education was also developed.

⁶³ Political Resolution on HIV http://www.unaids.org/sites/default/files/sub_landing/files/20110610_UN_A-RES-65-277_en.pdf

⁶⁴ Committee on the Rights of the Child, Concluding Observations Zimbabwe, 2016 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/044/47/PDF/G1604447.pdf?OpenElement>

⁶⁵ Policy Circular P-35 provides for the administration of corporal punishment in schools and grants school authorities with power to administer corporal punishment when certain conditions are met. Corporal punishment is administered only on boys.

⁶⁶ The State v A Juvenile CCZ 29/2015

⁶⁷ Under the Education Development Fund (EDF), a multi-donor scheme established in 2009

59. The Zimbabwe Statistics Agency MICS for 2014 shows a higher literacy rate (92%) for females aged between 15 and 24 than males (86.1%). The same study shows more girls enrolled at primary schools than boys⁶⁸. The primary school completion rate for girls is 98% and a percentage point lower than that for boys. There are increasingly more girls⁶⁹ in secondary schools than boys with a gender parity index of 1.17 and an annual growth of 1.15%. **Gender parity in the education sector is skewed in favour of girls. Zimbabwe should consider implementing policies aimed at gender equality in education in a gender-neutral manner.**
60. Greater effort is needed in making the school re-entry policy⁷⁰ for pregnant girls and young mothers a reality. Currently, selective interpretation by school officials and community perceptions about young mothers still limit access to further education. **UNCT recommends adoption of comprehensive sexuality education to provide greater access to services for young people.**

XVII. Scientific & Cultural Research

61. Zimbabwe ratified Cultural conventions relevant to safeguarding of heritage and creative economy. Support was provided to the Government to develop a National Arts and Culture Policy. Lack of adequate financial support has adversely affected the full implementation thereof. GoZ is encouraged to mobilize financial resources for culture sector based activities that have community level economic impact.
62. **Government is encouraged to continue taking concrete measures to promote holistic Science, Technology, Engineering and Mathematics (STEM) education, research and training to bridge the gap in scientific research & creative activity.**

XVIII. Persons with Disabilities

63. Persons with disabilities remain marginalised in all areas of public discourse despite prohibition of discrimination on the basis of disability in the Constitution.⁷¹ They continue to face challenges in access to justice, adequate specialised education facilities, access to public buildings, schools and polling stations.⁷²
64. In the majority of cases, disability in children is due to preventable causes, such as diseases, inaccessibility to full immunisation, lack of comprehensive care (antenatal and postnatal) and malnutrition. Early diagnosis of impairment and support remains difficult to obtain.⁷³ UN agencies

⁶⁸ Gender parity index at 1.01

⁶⁹ 63% of all girls v 52% boys of secondary school going age

⁷⁰ Ministry of Primary, Secondary Education Policy Document- draft guidance and counselling syllabus forms 1-4 2015

⁷¹ Section 56 (3) Constitution of Zimbabwe

⁷² National Report of a Baseline Survey on Perception, Attitudes and Understanding of Human Rights in Zimbabwe, ZHRC, 2014

⁷³ Committee on the Rights of the Child, Concluding Observations, Zimbabwe 2016, Op.Cit

strengthened the capacity of departments working with children and disabilities through provision of training workshops and in-service training.⁷⁴

65. Technical support was provided for the National Council of Disabled People in Zimbabwe towards the UPR, including attendance at consultative meetings on the national report. Additional support was provided to popularise the CRPD. **The GoZ should accelerate steps towards inclusion, access and empowerment of disabled persons. Greater effort is needed to provide educational assistance (special and learning aids) for children with disabilities. The GoZ is encouraged to fast-track alignment of the Disabled Persons Act with the relevant provisions of the Constitution.**

XIX. Refugees, Asylum Seekers and Statelessness

66. Zimbabwe hosts 10, 593⁷⁵ refugees and asylum seekers, primarily from the Democratic Republic of the Congo, Rwanda and Burundi. An encampment policy is in place requiring all refugees to reside at the Tongogara Refugee Camp (TRC). In practice, the government does allow refugees who can prove that they will be self-supporting to reside in urban areas.⁷⁶ Zimbabwe has a good legislative and administrative base for Refugee Status Determination (RSD), which is the responsibility of the Zimbabwe Refugees Committee (ZRC).⁷⁷ In 2015, the waiting period for status determination from the date of first arrival was up to 4 months.
67. Refugees have to concurrently hold a refugee identity card issued under the Refugee Act and a temporary permit issued under the Immigration Act. This requirement is an erosion of the quality of their protection. Generally, refugees receive the same treatment as nationals of the country with respect to law enforcement. However, the Department of Immigration enforces restrictions on movement with the result that refugees are often arrested. The failure to provide individual documentation has an impact on refugees' and asylum seekers' access to fundamental rights and freedoms. Restrictions on freedom of movement and employment, grounded in the country's reservations to Articles 17 and 26 of the 1951 Convention relating to the Status of Refugees have meant that refugees are obliged to reside in the TRC and are fully dependent on humanitarian assistance without any meaningful prospects for local integration.⁷⁸
68. Generally, the asylum climate in Zimbabwe remains positive. Persons seeking asylum are afforded access to the country and the relevant procedures.⁷⁹ However, adverse socio-economic conditions (high level of unemployment, lack of ethnic or social affinity with the host population) have eroded the quality of asylum.

⁷⁴ 190 Social workers received training in integrated case management for children with disabilities; +300 Rehabilitation Technicians received in-service training on management of childhood disabilities; +89 Education Officers from the Schools Psychological Services received training.

⁷⁵ As at 31 December 2015

⁷⁶ UNHCR -WFP Joint Assessment Mission (JAM) Tongogara Refugee Camp Zimbabwe, 2014 <http://www.unhcr.org/cgi-bin/texis/vtx/home/opendocPDFViewer.html?docid=5559a9ed9&query=zimbabwe>

⁷⁷ Chaired by the Commissioner for Refugees and consists of representatives from various government departments

⁷⁸ UNHCR -WFP Joint Assessment Mission (JAM) Tongogara Refugee Camp, 2014 <http://www.unhcr.org/cgi-bin/texis/vtx/home/opendocPDFViewer.html?docid=5559a9ed9&query=zimbabwe>

⁷⁹ Ibid.

69. The CoRC raised concern that the prolonged socio-economic crisis in Zimbabwe has led to the migration of children to neighbouring countries either with parents or unaccompanied in search of employment or relatives. This exposes children to a number of risks along the migration routes, including sexual abuse, physical abuse and exploitation, malnutrition and attacks by wild animals. **Zimbabwe is encouraged to ratify the Optional Protocol against Smuggling of Migrants by Land, Sea and Air, which is relevant in context of policing unaccompanied minors moving across borders.**
70. The Tongogara Camp has not been spared from the prevailing adverse economic conditions. Shelter remains a challenge at the camp. In 2014, more than 1000 refugee families were said to be in need of shelter. Existing shelters need repair while technical support is necessary to ensure improved quality of refugee shelters in particular roofing. Inadequate shelter in the camp increases protection issues for women and girls sharing single housing units with grown-up boys and men.⁸⁰ **UNCT recommends increased effort to ensure livelihood activities in the camp so that refugees develop a greater degree of self reliance. UNCT further recommends increased budgetary allocation to relevant Government stakeholders for the improved protection of refugees and asylum seekers.**
71. The Constitution provides a good basis for solutions for statelessness in the country, especially with respect to persons who may have ancestry in neighbouring SADC member states. However, **alignment of statutory law related to citizenship and nationality to the Constitution needs to be completed to provide protection to persons at risk of statelessness. Further, enabling legislation is required to create implementing institutions (for example, an independent constitutional Citizenship and Immigration Board). UNCT continues to advocate for accession to the 1961 Convention on the Reduction of Statelessness.**

XX. Climate Change & the Environment

72. Climate Change is an increasing threat to environmental rights. Technical support was provided towards the formulation of a climate change policy, National climate change response strategy, climate sensitive bio-diversity strategy and action plan. 20 districts have been supported to develop Disaster Risk Management plans. 10,000 households in 3 districts are being supported for climate change adaptation targeting women headed households. **UNCT encourages Zimbabwe to pursue a low carbon or green economy by supporting cleaner technologies.**

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⁸⁰ Ibid.