



UNIVERSAL PERIODIC REVIEW

SOS CHILDREN'S VILLAGES ZIMBABWE

(SOS CVZ)

www.sos-zimbabwe.org

Executive summary

1. SOS Children's Villages Zimbabwe (SOS CVZ) is a child rights organization which has been operational in Zimbabwe since 1983. SOS CVZ is a member of SOS Children's Villages International. Our vision is that every child belongs to a family and grows with love, respect and security. SOS CVZ works with partners and compliments government's efforts in service provision. Our services are Family Based Care, Family Strengthening and Education. This submission focuses on the rights of children in alternative care in Zimbabwe.

BACKGROUND AND FRAMEWORK

Scope of international obligations

2. Zimbabwe is a signatory to many international treaties such as the International Covenant on Economic, Social and Cultural Rights (ICESCR), May 1991, the African Charter on Human and Peoples' Rights, 1986, the International Covenant on Civil and Political Rights (ICCPR) and CEDAW, 1991 among others. Specific to children's rights, Zimbabwe ratified the United Nations Convention on the Rights of the Child (UNCRC) in 1990 and the African Charter on the Rights and Welfare of the Child (ACRWC) in 1992. These ratifications were statements of the Government's commitment to the enjoyment, realization and fulfillment of children's rights in Zimbabwe.

Constitutional and legislative framework

3. The Constitution of Zimbabwe (Amendment 20) provides an overarching legislative framework. Under the Bill of rights, (section 81) the constitution provides for the protection of children's rights especially the rights to: *to equal treatment before the law, the right to be heard; a name and family name; to a family or parental care, or appropriate care when removed from the family environment. The constitution states that a child's best interests are of paramount in every matter concerning the child (81,2)*
4. Other laws protecting children include the Children's Act, the Criminal Law (Codification and Reform) Act, Guardianship of Minors Act, Domestic Violence Act, Education Act and the Births and Deaths Registration Act.

Institutional and human rights infrastructure

5. The Zimbabwe Human Rights Commission (ZHRC) is a national human rights institution mandated with the promotion and protection of human rights. The functions of the ZHRC

are to investigate human rights violations and recommend effective measures to promote human rights and freedom to Parliament.

6. The National Programme of Action for Children (NPAC) is a department in the Ministry of Health and Child Care. Its mandate is to report to International and regional Treaty Monitoring Bodies like UNCRC and ACRCWC. To date it has sent periodic reports to the African Committee of Experts and United Nations Committee on the Rights of the Child.
7. Government departments are also mandated to ensure that human rights are respected through service provision and support to the vulnerable.

Policy measures

8. There are various measures which have been adopted by the Government aimed at improving the lives of vulnerable children such as the National Action Plan for Orphans and Vulnerable Children (NAP for OVC). This programme's policy measures target orphans and other vulnerable children. It considers those who have lost one or both parents; children with unfulfilled rights; and their families.
9. The Basic Education Assistance Module (BEAM) is based on a policy and legal framework that is designed to fulfill the right to education for children from poor families, orphans, children with disabilities, and children in foster care.
10. The National Orphan Care Policy 1999 provides for the protection of orphans. It identifies the biological family as the ideal environment for the care of children. It provides other forms of care as: kinship care, community care, foster care, adoption and residential care.
11. Victim Friendly Initiative. The Government developed the Victim Friendly system to facilitate access to justice for children who have suffered violence. The system introduced a portfolio within the police where an officer at every station would be assigned responsibilities of dealing with children in a child-friendly way.
12. National Residential Care Standards define dimensions of the quality of care and give minimum standards that have to be met by residential care institutions for the provision of services in the protection and care of children placed in institutions.
13. Assisted Medical Treatment Orders (AMTOs) provide access to health care for children in residential care institutions and children with disabilities.

PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

Cooperation with human rights mechanisms

14. Zimbabwe is a signatory to the African Charter on the Rights and Welfare of the Child. The state party is obligated to adhere to the mechanisms as outlined in the charter and must align internal laws to this treaty. The African Committee of Experts on the Rights and Welfare of the Children in their concluding observations¹ regretted that the report

¹ CONCLUDING OBSERVATIONS AND RECOMMENDATIONS BY THE AFRICAN COMMITTEE OF EXPERTS ON THE RIGHTS AND WELFARE OF THE CHILD (ACERWC) ON THE REPUBLIC OF ZIMBABWE REPORT ON THE STATUTS OF

was submitted with considerable delay, which prevented the Committee from reviewing the implementation of the Charter by Zimbabwe for some years after the ratification. The GoZ ratified in 1995 and submitted their initial, first and second report in 2014. All in one.

15. Under the UNCRC, the Committee expressed its appreciation to the State party for engaging, through a high-level and multidisciplinary delegation, in an open and fruitful dialogue with the Committee.
16. While noting the self-critical approach of the report of the State party, the Committee noted that the information provided therein did not follow the Committee's guidelines². The state party has maintained reporting schedules under the UNCRC article 44.
17. Zimbabwe last went through the Universal Periodic Review in 2011³. There were 177 recommendations made and the GoZ accepted 130. To respond to the issues raised, a National Plan of Action to ensure the implementation of the accepted recommendations was drawn up. According to UNDP⁴ the implementation of the UPR National Plan of Action was an opportunity to further the human rights agenda in the country. The problem identified by UNDP is the capacity gap in terms of understanding UPR as a mechanism and let alone the working of the UN Human Rights Mechanisms as a whole.

Implementation of international human rights obligations

Right to social security and to an adequate standard of living

18. The GoZ, in 1999 developed and adopted a National Orphan Care Policy in line with UN Guidelines for the Alternative Care of Children (A/RES/64/142). This was in response to the impending orphan hood crisis engendered by HIV and AIDS. The policy sought to support traditional methods of care and discouraged forms of care which removed children from their parents, communities and extended family. Due to non-implementation of the policy children who have lost parental care and those at risk of losing parental care are, in the absence of family-based alternatives, being placed in residential care. There are currently 5000 children in residential care in Zimbabwe.
19. Article 4 of the United Nations Convention on the Rights of the Child⁵ recognizes that if children's rights are to be realized, state parties should undertake all appropriate legislative administrative and other measures for the implementation of the rights enshrined in the convention. They shall take measures to the maximum extent of their available resources. Constitution of Zimbabwe Section 30⁶ provides that the state must

IMPLEMENTATION OF THE AFRICAN CHARTER ON THE RIGHTS AND WELFARE OF THE CHILD: Addis Ababa, 02 October, 2015

² COMMITTEE ON THE RIGHTS OF THE CHILD: Twelfth session: CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES: UNDER ARTICLE 44 OF THE CONVENTION: Concluding observations of the Committee on the Rights of the Child: Zimbabwe

³ Report Back to Office: Training on Human Rights Mechanisms for the Implementation of Zimbabwe 's UPR National Plan of Action: 29 October -2 November 2015

⁴ Ibid

⁵ United Nations Convention on the Rights of the Child Article 4

⁶ Constitution of Zimbabwe Amendment (No. 20) Act 2013 Section 30

take practical measures within the limits of the resources available to it, to provide social security and social care to those who are in need. Financing for alternative care is supposed to be covered by the budget line on children in difficult circumstances. Unfortunately this budget line is not well financed to meet the needs in the country.

20. GoZ has come up with measures to ensure social security and increase standards of living such as the direct cash transfers/ Harmonized Social Cash Transfers for ultra-poor families, BEAM and social welfare grants for OVCs including (children in residential institutions, foster care). The amounts that are allocated in the national budget for the above programmes do not get disbursed by national treasury on time. Because allocations do not translate to budget disbursements as a result children in residential care resort to donations from well-wishers.
21. However, the major challenge facing these noble initiatives have been widespread corruption due to mismanagement which has left many children unable to access BEAM and donors pulling out their support as well.
22. Grants meant for OVCs are not disbursed regularly/timeously posing a huge challenge for institutions where these children live and to foster parents as well as they are unable to ensure adequate standards of living due to lack of resources.

Equality and non-discrimination

23. The Government of Zimbabwe's (GOZ) enactment of the Births and Deaths Registration Act, Chapter 5:02, was an important step in establishing the legal framework for the registration of births and deaths in Zimbabwe. The Constitution of Zimbabwe section 81 subsection 1B speaks to the right of children to be given a name and family name. Despite the availability of this legal instrument, many children do not have birth certificates throughout the country. According to UNICEF 2010/2011⁷ 48.8% of births (nationally) were registered and 30.6% of children under 5 had birth certificates.
24. For residential care institutions only infants without any known relatives can be easily assisted by the Department of Social Services to register and obtain birth certificates. This department faces challenges in assisting older children since the Registrar of Births and Deaths would require a birth record or the testimony of the village health worker or family members to register the birth of these children.
25. As a result many of these children cannot sit for Zimbabwe Examination Council (ZIMSEC) examinations whose prerequisite is the availability of an identity document such as the national ID or a birth certificate. Hence, their right to an identity and education is heavily compromised. This has resulted in children without birth certificates not being able to participate in any sporting or extracurricular activities.
26. Some of the consequences of no birth registration are limited access to education, early child marriage for the girl child in particular, child labour, low self-esteem, discrimination and exclusion from national processes such as voting later on in life and formal employment.

⁷ UNICEF: 2015: Situation Analysis Of Children And Women In Zimbabwe: An update 2011-2014

III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS

Achievements/Best Practices

- 27.** The GoZ should be commended for its extensive Bill of Rights enshrined in the Constitution of Zimbabwe Amendment 20 Act which seeks to protect children in their entirety.
- 28.** The Zimbabwean government has been making efforts to report to the UNCRC, ACRWC.
- 29.** Social programs such as the National Action Plan, Basic Education Assistance Module, National Residential Care Standards, and Victim Friendly Initiative, AIDS levy, Harmonized Cash transfers and Children in Difficult Circumstances Fund should be applauded as they aim to support the most vulnerable in society.

Challenges/Constraints

- 30.** In order for children to enjoy their rights to identity, education, social security etc., they need to have birth certificates. However, research shows that birth registration is not prioritized by parents. The Births and Death Registration Act does not have measures to deal with those who do not register their children within the stipulated time of 6 weeks after birth. Difficulties of physical access to registering facilities and the high likelihood of more home deliveries are some of the challenges⁸. There is a lack of proper attention by the Government (Central and local) to the underlying causes affecting registration of births and issuance of birth certificates.
- 31.** The ratio of children to social workers is of the order of 49,587:1⁹. Zimbabwe's social welfare system has a huge case-load, and even by the most conservative estimates, its professional staffing is wildly out of alignment with that of other countries in the region. Lack of adequate numbers of professional personnel impedes effective implementation and monitoring of child protection legislation¹⁰. Above all, the Department of Child Welfare and Protection Services is under resourced and budgets allocated to them do not match what is eventually disbursed.
- 32.** Lack of resources undermines DSS's professional relationships with other government bodies and NGOs; it cannot credibly present itself as playing an active, necessary and authoritative part in the local criminal justice and social protection systems if it does not have the means to carry out the most basic functions unaided. The absence of resources also impacts on the Department's ability of DSS to monitor and inspect the services for children and others provided by NGOs.

⁸ UNICEF:2015: Situation Analysis of Children and Women in Zimbabwe: An Update (2011-2014)

⁹ INSTITUTIONAL CAPACITY ASSESSMENT DEPARTMENT OF SOCIAL SERVICES; MINISTRY OF LABOUR AND SOCIAL SERVICES: Final Report: October 2010.

¹⁰ Ibid

33. The UN Guidelines for the Alternative Care of Children (A/RES/64/142) which inform, to a large extent, the Bill of Rights for children set very high standards in comparison to what is obtaining on the ground. Action is required to move towards full implementation of the UN Guidelines.
34. The legislative policies in the country are quite adequate to be able to cater for children. However, the problem of adequate resourcing and implementation remain a major challenge.
35. Laws are scattered in different government ministries and yet there is not yet a clear coordination mechanism among the various ministries that are relevant to children. Some of these ministries are the Ministry of Public Service, Labour and Social Welfare, the Ministry of Health and Child Care, the Ministry of Youth, Indigenization and Economic Empowerment, the Ministry of Justice, Legal and Parliamentary Affairs, the Ministry of Primary and Secondary Education, and the Ministry of Home Affairs.
36. Corruption has also led to challenges being faced in birth registration as one would be required to pay a fee to jump the queue and for those who have been waiting for a long time in the queue would be discouraged.

IV. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS

In response to equality and non-discrimination, the GoZ should ensure that,

37. Birth registration for OVCs and in particular children in institutional care should be made a priority. The Registrar General of Births and Deaths should waive some of its birth registration requirements (in the best interest of the child) especially for children in residential child care, children of unwed parents etc. in view of the current Constitution's provisions in **section 81**
38. Registrar general's office prioritizes the removal of the 6 weeks expiration date on birth records. This is because maternity user fees remain high and out of reach for most mothers. Most hospitals and clinics only release the birth record once all arrears have been cleared.
39. Decentralized government authorities at the local level and health facilities are able to register births and issue birth certificates, equipped to strengthen and expand mobile birth registration to reach universal coverage, in particular for registering children born outside of health facilities and children who have never been registered;
40. Increased public awareness of the importance of birth registration and the process by which births are registered.

Right to social security and standard of living,

41. The GoZ should increase support to residential care institutions looking after children on their behalf. The child grants per child should be increased from the current USD \$15.00 to USD 20.00. Funds for this support should be disbursed timely so that children do not miss education and other child development activities.

- 42.** The State party must take immediate measures to combat corruption and strengthen institutional capacities of the Department of Child Welfare and Protection Services through the allocation of human, technical and financial resources to effectively detect, investigate, monitor and support social protection initiatives for children in Zimbabwe.
- 43.** Ensure that the Zimbabwe Human Rights Commission has the mandate and resources to monitor children's rights and is able to receive, investigate and address complaints by children in a child-sensitive manner;
- 44.** Ensure the independence of the Zimbabwe Human Rights Commission, including with regards to its funding, mandate, immunities and the appointment of its members, in full compliance with the Paris Principles;
- 45.** The GoZ to ensure consistency in the disbursement of grants, to allocate resources to the DCWPS to ensure regular monitoring of institutions, increased facilitation of foster care and continuous capacity building of the department's staff, to guarantee quality alternative care in line with the UN Guidelines for the Alternative Care of Children (A/RES/64/142).