

AFRICAN UNION

**African Committee of Experts on the Rights
and Welfare of the Child**



UNION AFRICAINE

**Comité Africain d'Experts sur les Droits et
le Bien-être de l'Enfant**

الاتحاد الأفريقي

*"An Africa Fit for
Children"*

UNIÃO AFRICANA

**P. O. Box 3243 Roosevelt Street (Old Airport Area), W21K19, Addis Ababa,
Ethiopia**

Tel: (+251 1) 551 3522 Fax: (+251 1) 553 5716 Website : www.acerwc.africa

**REPORT OF THE ACERWC ON THE FOLLOW-UP MISSION CONDUCTED TO
MONITOR THE IMPLEMENTATION OF ITS CONCLUDING OBSERVATIONS AND
RECOMMENDATIONS TO THE REPUBLIC OF ZIMBABWE**

12-15 JUNE 2019

June 2019

- I. **Purpose of the Mission:** The purpose of the Mission is to monitor the level of implementation of the concluding observations and recommendations issued by the African Committee of Experts on the Rights and Welfare of the Child (ACERWC/the Committee) to the Government of Zimbabwe following the consideration of the latter's initial report on the implementation of the African Children's Charter in 2015.
- II. **Objectives of the ACERWC in this Mission:** The Missions aims at undertaking a constructive dialogue with representatives of the Government of Zimbabwe to learn about the progress achieved, challenges faced, and opportunities in the implementation of its concluding observations and recommendations. The ACERWC also intended to bring stakeholders together to boost collaboration between the Government, UN agencies, CSOs, and other stakeholders. Moreover, the Committee *sought to* enhance and accelerate the implementation of its recommendations and to ensure that the reporting cycle is maintained.
- III. **Expected outcomes:** The Mission provides for an opportunity to the Government of Zimbabwe to appreciate its progress in implementing the recommendations and thereby learn best practices that can be used by the ACERWC in its further engagement with other State Parties. Moreover, the Mission creates an opportunity to the Government to identify and address its challenges in implementing the recommendations of the Committee. Finally, the Mission also enhances the continued commitment from the Government of Zimbabwe to implement the recommendations and the Charter as well as to submit its periodic report in a foreseeable future.
- IV. **Delegation:** The Delegation of the ACERWC was composed of Hon. Goisteone Nanikie Nkwe, Chairperson of the ACERWC; Hon Aver Gavar, Member of the ACERWC and Special Rapporteur on Violence against Children; Mr Ayalew Getachew Assefa, Senior Child Protection Officer; and Ms Adiam Zemenfes Tsighe, Legal Researcher.
- V. **Methodology:** The Mission engaged in constructive discussions and bilateral meetings with representatives the Government, UN Agencies and CSOs; workshops as well as direct observations to identify the achievements and challenges in relation to implementation of the concluding observations and recommendations.

VI. Mission activities

4.1. Courtesy Calls

The Delegation paid courtesy calls to the Minister of Health and Child Care, Dr Obadiah Moyo on 13 June 2019 and to the Permanent Secretary of the Ministry of Foreign Affairs and International Trade, Ambassador James Manzou on 14 June 2019. During its brief meetings, the Committee introduced the purpose of its visit as well as some developments in the Committee including the planned relocation to the Kingdom of Lesotho.

4.2. Consultation with Various Ministries and other stakeholders

On 13 June 2019, the Committee had meetings with representatives of various Ministries and partners organisations, including:

- i. Ministry of Health and Child Care,
- ii. Ministry of Public Services,
- iii. Labour, and Social Welfare, Ministry of Home Affairs (Office of the Registrar General),
- iv. Ministry of Local Government, Rural and Urban Development,
- v. Information and Communication Technology Authority,
- vi. Zimbabwe Republic Police,
- vii. Zimbabwe Prisons and Correctional Services,
- viii. UNICEF
- ix. Save the Children International,
- x. Plan International, and
- xi. The Zimbabwe National Council for the Welfare of Children.

4.3. Workshop on the situation of children in Zimbabwe

As part of its Mission, the Committee organized a consultative workshop on the implementation of its concluding observations and recommendations and the situation of children's rights and welfare in Zimbabwe. The Workshop brought together representatives from a wide range of Government Ministries, partner organizations and a pool of CSOs with the aim to assess the implementation of the concluding observations and recommendations and identify gaps that can be improved through coordinated efforts. With a keynote address from the Chairperson of the Committee, Hon Goitseone Nanikie Nkwe, the Workshop was officially opened by the Minister of Health and Child Care, Dr Obadiah Moyo.

4.4. Celebration of the Day of the African Child (DAC) in Zimbabwe

As part of the Mission, on 15 June 2019, the Committee was invited by the Government of Zimbabwe to observe the celebration of the Day of the African Child (DAC) in the Country. The Committee notes with great appreciation that the DAC celebrations include a live seating of the Child Parliament; in the presence of the President of the Republic of Zimbabwe, H.E. Emmerson Mnangagwa as well as Ministers of sectors that work on children's rights and welfare. The Committee also noted with appreciation that the strong structures within the child parliament are a replica of the structure of the Government of Zimbabwe. In addition the Committee has also observed that all children are represented in the Children's Parliament; including representation from all districts as well as children with various forms of disabilities. The key note speech was delivered by the Child President and the Parliament debated on the theme of the DAC for 2019, i.e. Humanitarian Action in Africa: Children's Rights First and other issues that are pertinent to children. Following the debates of the Child Parliamentarians, the Ministers of various sectors responded to the issues raised by the children.

While addressing the Child Parliament and the President of Zimbabwe, the Child President highlighted that due to the cyclone Idai, in Chimanimani 139 schools were destroyed, 90,847 students were affected and hence schools are experiencing shortage of teaching materials, reduced school numbers of staff members, infrastructure that need massive repairs, as well as low attendance rates. Considering the theme for the DAC in 2019, the Child President requested the celebration of DAC in Chimanimani in solidarity with those who have been affected by the natural disaster. In addition he raised the issue of children's right to life and survival; observing that 1 out of 15 children die before the age of five; 1 in 4 children live in extreme poverty; 27% are stunted; 24% have no access to improved water; only 35% have access to proper sanitation; 52.6% of primary schools have no access to electricity; only 32% of children under five are registered at birth; and a third of teenage girls are married before they attain majority.

During the debate, children also raised issues including age of statutory rape being limited to 12 years, fluctuation of power and lack of electricity that is affecting education, the increasing number of out of schools children which has reached 21% due to lack of access to transportation to schools, early pregnancy, child marriage, sexual exploitation, child labour, discrimination against children with disabilities, and lack of school feeding programs, limited provision of sanitary pads for girls, inaccessibility of school facilities and materials by children with disabilities, unavailability of bridges at rivers which keeps children out of schools during the rainy season, lack of computers in schools for ICT education, inability of the education system to nurture talents and sports, lack of prosecution of perpetrators of child marriage, lack of sign language interpretation in basic services, and destruction of recreational activities which is leading to drug abuse. Moreover, the children accentuated the need to prioritize children in budget allocation by the State Party; protect and care for children on the street; and promote and support child parliament so that it can undertake effective action at community level.

Following the debate, the Ministers of the various sectors responded to the issues raised and mentioned that the Ministry of Education is trying to make school buses and toilets user friendly and accommodate children with disabilities and is working with development partners to provide schools materials; and Ministry of Youth is putting efforts to create recreational services. Furthermore, it was indicated that the State Party has introduced oral typhoid vaccination to address cholera outbreak and provision of reusable domestically produced sanitary pads. On issues of sexual reproductive health, the Ministry of Health and Child Care informed that children are advised to discuss with their care givers before seeking the services and that the State Party advocates for children to abstain from sex. During the response, it was noted that substance abuse is an issue and the Government has tried to use young musicians for sensitizations. The Government also promised to support the Child Parliament with necessary facilities including cellphones.

VII. MAJOR FINDINGS OF THE MISSION

Following undertaking the above-mentioned activities, the Delegation of the ACERWC identifies the following issues as forming part of its major findings.

7.1. On General Measures of Implementation

- i. **Dissemination of the concluding observations and recommendations:** The Committee notes that the concluding observations and recommendations were published and disseminated by Plan International in collaboration with other stakeholders; and a work plan for the implementation of the recommendations was developed. However, the Committee was informed that the work plan has not been launched by the Government.
- ii. **Reporting on the implementation of the African Children Charter (Submission of Periodic Report)-** The Committee was informed by the Ministry of Health and Child Care that the State Party has finalized the preparation of its first periodic report for the period 2015-2017 which is now at the Cabinet for approval and will be submitted to the Committee before the end of July 2019.
- iii. **Legislative Measures:** The Committee observes its recommendation on the adoption of the General Amendment Bill was implemented as it was adopted in 2017. However, despite the Committee's Recommendation for the State Party to amend (or finalise amendments of) various legislations including the Children's Act, the Marriage Act, Birth and Death Registration Act, Education Act, and Inheritance Act had not been done. In addition the Child Rights Policy which has been a draft since 2012 has not yet been approved while the Child Justice Bill has not yet been enacted. The Committee further notes that public consultations are

not carried out during the law reform process while it is pertinent to consult; particularly in cases where society plays key role in implementation, such as in the case of the amendment of the Marriage Act.

- iv. **Institutional measures and coordination:** To address the institutional gap observed by the Committee at the time of the consideration of the Initial Report, the Committee has recommended for the establishment of a separate Ministry for children. In the absence of implementation this recommendation, the Committee is concerned that lack of coordination of child rights issues greatly affects the implementation of the Charter and the concluding observations in the State Party. The Committee particularly notes that the National Plan of Action for Children, which is the main coordination body for protection and promotion of child rights issues, but it is located within the Ministry of Health and Child Care; whereas most of the child rights and welfare issues including monitoring the Children's Act falls under the mandate of the Ministry of Public Services, Labour, and Social Welfare. The Committee notes with concern, that this arrangement creates tensions and disconnections in the State Party's activities on children's rights; which, coupled with lack of the capacity to implement the National Plan of Action for Children by the Ministry of Health and Child Care adversely affects the full implementation of the African Children's Charter in general and the Committee's recommendations in particular. With regard to independent monitoring, the Committee was informed that the National Human Rights Commission has child rights as one of its 8 thematic areas and hence there is a Commissioner for child rights who leads the thematic area.

- VIII. **Child Friendly Budgeting:** During the various discussion, the Committee noted that there is no mechanism to ensure child friendly budgeting. The Committee was informed that the Ministry of Public Services, Labour, and Social Welfare, which deals with most of child rights and welfare issues, has only been listed once in the 5 Ministries that are prioritized in budget allocations. The Committee also notes that public investment on children is low in terms of services. For instance, the target of the Abuja Declaration on health budgeting is never met as only 5% of the total budget goes to the health sector. Beyond issues of budget allocation, the Committee observes that there is discrepancy between budget allocation and disbursement in sectors like education where there is relatively higher budget allocation. Likewise, Social Cash Transfers are not being transferred due to the fiscal challenge the State Party is going through, hence the allocation budget is not being consumed. Due to insufficient budget allocation, most programs and projects are supported by donor funding and hence not sustainable. A case on point that was brought to the attention of the Committee is the pre-trial diversion program which stopped after the pilot project supported by donor funding.

- IX. Collaboration with CSOs:** The Committee realizes that at institutional level, there is good collaboration between the Government and CSOs on children's issues and that CSOs are given seats on national coordination committees on child protection issues.

7.2. On the Definition of the child and other age related requirements

In its concluding observations and recommendations, the Committee raised a concern in relation to the minimum age of criminal responsibility, which was set at the age of seven. During the visit, the Committee noted that the Cabinet had made a decision to raise the age of minimum criminal responsibility to the age of 10, and there is an ongoing discussion on the Child Justice Bill, if adopted, will further raise it to 12 years. In terms of the minimum age of Marriage, the Committee notes that the Constitutional Court of Zimbabwe has clearly outlawed child marriage, however, the Marriage Act which sets age of marriage at 16 for girls, is yet to be amended.

7.3. General Principles

- i. **Right to life survival and development:** During the discussions, the Committee was informed that the State Party has increased its immunization coverage which is over 90% and has introduced new vaccinations for children. Immunizations are available for free and well-coordinated. However, the Committee was also informed on the existence of some religious beliefs which sometimes hinder vaccination for children. The Committee also notes that maternity services are free in public hospitals and that the number of women who use this service has increased significantly. However, it has also been observed that there are instances where government facilities have introduced charges as a cost recovery measure. The Committee also noted that some districts present high level of stunting and under-nutrition.
- ii. **Participation of the child:** While the Committee had the opportunity to observe how the child parliament vibrantly operates during the celebration of DAC, it was informed that the child parliament is not active throughout the year.

7.4. Civil Rights and Freedoms

- i. **Birth registration:** The Committee was informed that decentralization of birth registration services is an ongoing process and that currently there are 10 provincial offices, 72 district offices, and 206 sub offices in health centers for birth registration. It was further indicated that the recommended harmonization of the Birth and Death Registration Act to remove discriminatory provisions is ongoing in the framework of the general harmonization of laws with the Constitution of Zimbabwe. The Office of the Registrar General indicated that the registration of children below the age of six are registered for free while children above the age of six are charged a nominal fee of \$2. Free mobile registration is established structurally to be undertaken once a year. The Committee notes that a decree has been issued for traditional leaders to issue

support letter for orphaned and other children who may not have family environment to get registered.

Despite these efforts, the Committee notes challenges including the distances people in the villages travel to access birth registration centers and that traditional practices like naming rituals that leads to newly born babies leaving health centers without being registered. There are also reports of long queues at registration centres, poor quality of services; including members of the public being sent back and forth, delays in issuance of birth certificates mainly due to lack of paper or printing machines, and mobile registration not being carried out periodically. In addition, the Committee notes some legal barriers such as the requirement of the physical presence of the father for the registration of children born out of wedlock, and the requirement for parents to produce their own birth certificate in order to register their children as the major barriers to the implementation of the State Party's obligation to ensure universal and free birth registration for all children born in the territory. The Committee notes that the above-mentioned challenges impose cost on parents such as transportation fees to register and collect birth certificate, transportation fee for witnesses in cases where the father is not present, payment for birth records if lost and so forth. Mobile registrations are not carried out periodically and free birth registration campaigns for children and adults is not sustained. The abovementioned challenges were all attested by the participants of the workshop that the Committee has organised on 14 June 2019. Furthermore, the Committee learns that there no assessment undertaken on birth registration to measure the progress and identify the challenges. The visit informed the Committee that Lack of birth registration affects sitting in national exams, participation of children, and reporting of sexual abuse as courts require birth certificate to determine the age of the victim.

- ii. **Protection from abuse:** The Committee observes that its recommendation on removing whipping as a sentence against children in conflict with the law has been implemented and corporal punishment has been abolished as punishment by the Constitutional Court of Zimbabwe. However, the banning of corporal punishment in all settings including schools is yet to be realized as harmonization of laws is not finalized including the adoption of the Education Amendment Bill which aims to outlaw corporal punishment in schools. In addition to outlawing corporal punishment, the Committee observes the need to undertake sensitization as corporal punishment is deep rooted in the society.

7.5. Family environment and alternative care

The Committee notes that alternative care for children is handled by the Department of Social Welfare and both domestic and inter-country adoption are carried out considering the best interest of the child. The Committee was also informed that monitoring of adoption cases is undertaken

and for international adoptions monitoring is undertaken through the Geneva office of civil protection. Despite its recommendation, the Committee observes that the State Party has not ratified The Hague Convention on Protection of Children and Cooperation in Respect of Inter-Country Adoption.

The Committee also notes that, the Government, supported by development partners, has put in place national case management system and programs, such as the social cash transfer to reach vulnerable children including child headed families. Nevertheless, the Committee observes that the cash transfer is not taking place currently due to budgetary and fiscal limitations.

Though the State Party has decided to move from dormitory residential care to family unit based residential facility; however, the Committee was informed that this has not been implemented. With support of other stakeholders, the State Party launched a campaign to promote foster care, nevertheless its implementation, the Committee notes, has been impaired by the high-level poverty that people in the State Party are facing.

The Committee was informed that residential care facilities are not getting their grants from the Government and unregistered care facilities are proliferating. Moreover, the existing residential care centers have poor standards and are overcrowded. In addition, the Committee was informed that there is lack of regular and proper monitoring of residential care facilities due to lack of sufficient probation officers.

7.6. Health and welfare

The Committee notes, the State Party has established integrated case management at community level to prevent and address acute malnutrition and other illnesses. The Committee further notes that the Government is trying to make health coverage available at community level.

Concerning teenage pregnancy, the Committee was informed that sexual reproductive health education is provided in schools.

The Committee also notes that the Disability Act is undergoing revision and the National Disability Policy is progressing. Currently the provision of inclusive education is subject to available resources.

7.7. Education and leisure

While it is noted that the budget for the education sector has increased significantly in 2019 as compared to 2018, the discussions have informed the Committee that that substantial part of the budget goes to administrative costs.

The Committee notes the existence of a Governmental policy that provides that children should do pre-primary education before enrolling in primary education.

However, from the various discussions, the Committee notes that there are a large number of out of school children whose exact number remains unknown as there is no updated assessment.

The Committee also notes that the Basic Education Assistance Module, program to support the education of orphaned and vulnerable children, is based in the Department of Social Welfare. There are instances where school fees from this support are not disbursed on time forcing children to enroll late or to stay out of school. Hence, the Committee observes that there needs to be coordination among actors that manage safety net programs for education.

In relation to education for children with disabilities, the Committee notes that Education Amendment Bill intends to require schools to have the necessary facilities to respond to the needs of children with disabilities. However, currently schools are not disability friendly and there is lack of teachers trained for special needs education.

7.8. Special measures of protection

- i. **Refugee/asylum seeking children:** The Committee observes that there are outlined tools on the treatment of asylum seeking children and other children who need reunification and that there are guidelines developed for international referral/reunification. Children are put in alternative care when they need psychological support and return is undertaken through return referral letter. The Committee also learns that there is an operational referral mechanism as well as family tracing and reunification. The Committee further notes that the Government escorts a child who is being returned or reunified up to the border and the other country will receive the in international reunification procedure. To smoothen the support for children on the move, the State Party has established a tripartite relationship between Immigration, Department of Child Welfare and the office of the Registrar General. Moreover, the Committee observes that the Government of Zimbabwe actively engages on cross border coordination mechanisms and allocates budget for such collaborations.
- ii. **Children in conflict with the law:** The Committee was informed that there is a pre-trial diversion program and separate correctional services for children, hence children are not imprisoned or detained with adults. At every police station, there is a division that deals with children in conflict with the law and children are not arrested until investigations are carried out. Furthermore, the case of children in conflict with the law is not dealt with the ordinary court; rather a committee established for this purpose decides what punishments should be applied on a child in conflict with the law. The pre-trial diversion program is provided in a policy document and the Child Justice Bill provides for the same and thereby gives it a legal basis once adopted. The Committee was also informed that life imprisonment has never been pronounced against children in conflict with the law. In cases where detention of children has been pronounced as a sentence, children in conflict with the law are not imprisoned but detained in separate facilities than adults where they get access to education which is the same as the national curriculum.

Despite the above-mentioned efforts, the Committee was informed that during the recent public demonstrations, children were arrested, subjected to ordinary

justice administration procedures with no legal aid or consultations, and detained with adults.

The Committee was also informed that there have been continuous trainings, including at provincial level, delivered to the police on children's rights and child friendly policing.

- iii. **Children of incarcerated mothers/primary caregivers:** The Committee learns that children of incarcerated mothers/primary care givers are supposed to stay in detention centers only for 2 years according to the law, however, they mostly stay up to 4 years for reasons beyond the control of the prison administration. There are rehabilitation departments in all correctional centers and Kindergarten education is available in female prisons. Children of incarcerated mothers attend kindergarten with children on officers and health personnel are available. However, the Committee was informed that the environment where children are kept with their incarcerated caregivers is not conducive and facilities need to be improved.
- iv. **Sexual abuse and exploitation:** The Committee was informed that there are trained officers for victims at all police stations. The low rate of reporting of cases was raised by the Committee as a concern on the concluding observations and recommendations, and Government has updated the Committee that reporting of cases of sexual abuse has increased; currently 70% of the cases reported are issues of sexual abuse against children. Increased reporting was achieved following the intensive campaigns of the Government on the issue including in schools. However, from the various discussions, the Committee observes that there is low rate of prosecution of perpetrators of sexual abuse and the number of probation officers to assist the children remains very low.

On issues of online children sexual exploitation, the Information and Communication Technology Authority informed that there are child online protection guidelines and there is an initiative of developing a policy on the issue. The 2016-2020 policy on ICT has elements on children, but the Government felt the need to have a separate policy on child protection in virtual space. Moreover, the Committee was informed that in 2017 the police partnered with an NGP to launch a pilot a project on online sexual exploitation in Harare. There is also education in schools on online sexual exploitation of children and the Government tries to identify those who sexually abuse children in partnership with Interpol.

- v. **Child labour:** The Committee notes that the Department of Social Welfare deals with issues of child labour, but the inter-ministerial committee also operates to coordinate protection of children affected by child labour. However, during the workshop, the Committee was informed that the inter-ministerial Committee has not met since 2014. The department of social welfare

undertakes labour inspections on farms and other sectors and there are instances where perpetrators have been taken to court and fined or imprisoned. Child labour is high in tobacco farms and the Committee noted that the fines imposed on perpetrators are very small to send deterrence message.

- vi. **Harmful practices:** The Committee notes that FGM is not carried out as cultural practice in the State Party; however, child marriage happens to be a challenge. Poverty has been identified as one of the push factors for child marriage. The Ministry of Gender has developed a national strategy on ending child marriage and perpetrators of child marriage are prosecuted.

7.9. Emerging/Current issues

Following the Cyclone Idai disaster, the Committee recognizes that various services have been damaged including schools and health centers. 347 persons are missing and 400 were buried, however, the Committee was not provided with data on the number of children who have lost their lives or those missing. The Government is putting efforts to provide multi-sectoral support including school material thorough the civil protection unit. An inter-agency committee is established to provide various services including psychosocial support. With the support of development partners, health services are provided in temporal facilities.

vii. Actions points

Considering the above-mentioned findings, the Committee recommends that the State Party undertakes the following measures:

- a. Submit its periodic report to the Committee on the status of the implementation of the provisions of the African Children's Charter as soon as possible;
- b. Ensure that there is proper coordination mechanism among organs that work on children's rights and welfare; and to this end consider one of the following options:
 - i. Establishing a separate Ministry which deal with protection and promotion of children's rights including the mandate to coordinate the work among other ministries and organs of the Government in relation to children's rights issues;
 - ii. Consider removing the National Plan of Action for Children from its current host, the Ministry of Health and Child Care, and place it under the Ministry of Public Services, Labour, and Social Welfare; or
 - iii. Taking the National Plan of Action for Children back to the Office of the President where it used seat.

- c. Prioritize laws that affect children in the process of harmonization of laws with the constitution given the large number of laws being considered for alignment; and in doing so ensure, among others, that child marriage is criminalized, corporal punishment is outlawed in all settings, and children born out of wedlock are not discriminated during birth registration as well as inheritance.
- d. While noting that the State Party is facing fiscal challenges, it is recommended that children's issues are prioritized in the disbursement of cash for allocated budgets;
- e. Intensify efforts to address issues affecting the life, survival and development of children such as child malnutrition, child mortality, access to drinking water, and sustain the momentum of high immunization. Moreover, the State Party is encouraged to ensure that no fee is attached to the free delivery introduced;
- f. Carry out mobile birth registration periodically and ensure birth registration for all children;
- g. Link birth registration with other basic services such as birth notification, post-natal care at most important milestones such as vaccinations so that parents are not required to move long distanced only for birth registration; rather they also get the opportunity for registering their children while accessing other services. In addition, increase the accessibility of birth registration and establish a one stop approach for birth registration and birth certification there by removing any hidden cost for birth registration;
- h. Sensitize communities about the negative impact of corporal punishment and introduce various modes of positive discipline in schools and at home;
- i. Undertake regular periodic monitoring and inspection of residential care facilities to ensure that there are no unregistered homes and the registered once fulfil the minimum requirements. With a view to provide family environment, the State Party is encouraged to extend its safety net programs to kinship and foster care in case of need;
- j. Assess the rate and reasons of school drop-out and devise mechanism to prevent as well as to target children who are out of school;
- k. Ensure that adolescent girls have access to sexual reproductive health services and sexual reproductive health education is provided in schools;
- l. Strive towards inclusive education by ensuring that the budget increment in the education sector aims at school infrastructure and facilities; and
- m. Undertake thorough investigation and prosecution of perpetrators of violence such as sexual exploitation and child labour.