

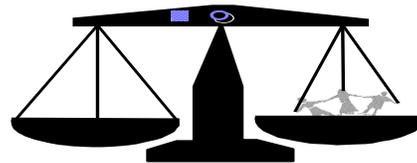
Universal Periodic Review

Zimbabwe Child Rights Organizations' Submission

March 2011



Justice for Children Trust



Zimbabwe National Council
For the Welfare of
Children
P.V.O.385/68



Consultation process

This submission has been prepared by four leading child rights organisations in Zimbabwe namely Zimbabwe National Council for the Welfare of Children (ZNCWC), Save the Children, Plan International and Justice for Children Trust. These organisations conducted wide consultations with their stakeholders who, among them, included children. The organisations work in the areas of child rights, child protection, education, juvenile justice and coordination. Further consultations were conducted with thirty organisations constituting a Child Protection Coalition. Children were consulted using the various organisational structures in coming up with this draft.

Country context

Zimbabwe has a total population of 12,521,000¹ of which 50% are aged 18 and below. Zimbabwe has a higher number of orphans, in proportion to its population, than any other country in the world, according to UNICEF. As many as 1 in 4 children in Zimbabwe are orphaned as a result of parents dying from AIDS². On the Human Development Index of 2009, the country ranked 169 out of 182 countries³.

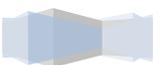
Despite the aforementioned background, the organisations in the child rights sector appreciate the commitment by the Government of Zimbabwe (GoZ) to children's rights through ratification of the United Nations Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child. Furthermore, reviewing of the Children's Act in 2001 and adoption of several initiatives like the Victim Friendly System and the National Action Plan for Orphans and Vulnerable Children that enhance protection of children is commendable.

The GoZ has also done commendable work through establishing institutions dedicated to the promotion of children's rights in the country. These include the Child Welfare Council, the National Programme of Action and the Inter-Ministerial Committee on Human Rights and International Humanitarian Law (IMC). It is however regrettable to note that Government has not been allocating adequate resources to these important structures. While the socio-economic downturn which started in the 1990s and reached its peak in 2008 largely explains why little resources were set aside for these child rights institutions, we urge the Government to prioritise

¹ Department of Economic and Social Affairs Population Division (2009) (PDF). [World Population Prospects, Table A.1](http://www.un.org/esa/population/publications/wpp2008/wpp2008_text_tables.pdf). 2008 revision. United Nations. http://www.un.org/esa/population/publications/wpp2008/wpp2008_text_tables.pdf. Retrieved 2009-03-12.

² The Standard (2010, March 20th) '[Orphaned Children struggle to survive](#)

³ '[Human Development report](#)'. (2009) UNDP



the effective functionality of the aforementioned institutions in the wake of a gradually improving economy.

The GoZ ratified the UNCRC in 1990 and went on to submit the initial State Party Report in 1995, a demonstration of its commitment to children's rights in the country. It has not reported to the UNCRC since 1995 even though it is required to do so every five years. We also sadly note that the GoZ did not address most of the issues highlighted in the Committee's Concluding Observations to the Initial Report. The Government is urged to further show its commitment to children's issues by ensuring that it meets its periodic reporting requirements to the UNCRC.

There are several players in the child rights sector doing a lot of good work for the promotion of children's rights. This is, however, not being centrally documented. Currently, available information on the state of children's rights is not centralised in any Government ministry. This scenario presents challenges in ascertaining the state of children's rights in the country.

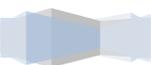
General Recommendations

1. The Government of Zimbabwe should, through the Department of Social Services, develop child rights based policies and programmes, in compliance with the Committee on the Rights of the Child's Concluding Observations of 1996.
2. The Government of Zimbabwe should, through the Zimstats Department, establish a system that guarantees availability of updated, disaggregated data on the state of children's rights. All data on the situation of children's rights, gathered in a participatory manner, should be made available to the stakeholders.

Priority child rights issues

Although various issues on child rights emerged during consultations, the following were most prominent:

1. Child sexual abuse
2. Birth registration
3. Access to quality education
4. Juvenile justice
5. Social protection



CHILD SEXUAL ABUSE

Problem description

Child sexual abuse is a plague in the Zimbabwean society which has detrimental effects on a child. Some of these effects include sexual dysfunction, pain, trauma and other mental illnesses. Available data shows that 60% of rape survivors brought to the attention of the authorities are children, and an overwhelming majority of the victims are girls. In 2009, the Zimbabwe Republic Police recorded 3448 child abuse cases while the Victim Friendly Court dealt with 1222 cases. This is believed to be only the tip of the iceberg as the majority of abuse cases are not reported to the authorities⁴. This is an indication that sexual abuse is a serious problem in the country.

Some of the reasons that are contributing to sexual abuse of children are; religious beliefs, harmful cultural practices, increased levels of poverty, orphan-hood, child headed and grandparent headed households, children walking long distances to school, breakdown of the extended family, political violence and the dual legal system which provides conflicting ages of marriage.

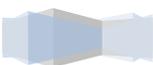
In recognition of this, the GoZ responded by promulgating the following pieces of legislation and systems set to protect children including the Criminal Law (Codification and Reform) Act, Children's Act, Domestic Violence Act and the Criminal Procedure and Evidence Act which created the Victim Friendly Court System in Zimbabwe. However, these good pieces of legislation fall short when it comes to implementation.

In addition, the GoZ has made sure that there is the Victim Friendly Unit at each police station, nationwide. However, the system has been compromised by limited resources, resulting in it not operating at its fullest capacity.

Recommendations:

1. The Government of Zimbabwe, through the Ministry of Home Affairs, should ensure that by December 2012 all police stations have established Victim Friendly Units that are

⁴ Victim Friendly Unit Police Reports, disaggregated by year to uncover general trends,(2008,9, 10)



adequately resourced and staffed with personnel trained to work with children and communities in a child-friendly manner.

BIRTH REGISTRATION

Problem Description

A birth certificate is an important document that every child is entitled to. It is significant as proof of one's nationality, as proof of parents' responsibility before the law to provide legal protection for their children, for school registration and also for Government to measure the growth of its people and in calculating the number of births.

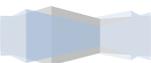
The GoZ's enactment of the Births and Deaths Registration Act, *Chapter 5:02*, was an important step in establishing the legal framework for the registration of births in Zimbabwe. Despite the availability of this legal instrument, many children do not have birth certificates throughout the country. It is estimated that in 2009, 45% of children under five in urban areas and 70% in rural areas did not have birth certificates. This means that all these children did not have a legal name, nationality or citizenship rights.

The major hindrances in obtaining birth certificates are the bureaucracy at the Registrar's offices, the rigorous systems of obtaining birth certificates and the long distances that parents or guardians travel to the Registrar's offices. Parent(s) and in some cases guardians overlook or fail to understand the importance of obtaining birth certificates for their children. This problem is most common in farming and rural communities. The major underlying cause of non-registration is that most migrant farm labourers of foreign origin do not possess formal Zimbabwean registration papers⁵. This has resulted in the whole generation of unregistered children who have gone to have their own families facing the same fate.

Recommendations

1. The Government of Zimbabwe, through the Ministry of Home Affairs, should amend the Births and Deaths Registration Act by 30 December 2012 to ensure that all children born in Zimbabwe, regardless of the parents' origin, are issued with birth certificates.
2. The Government of Zimbabwe, through the Ministry of Home Affairs, should decentralize birth registration to all the districts of the country and introduce Information

⁵ 2007, Justice for Children Trust Birth Registration Research



Communication Technology (ICT) to enhance documentation of births and record keeping by end of 2013.

QUALITY EDUCATION

Problem Description

Education is one of the basic rights that are enshrined in both the United Nations Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child. It is a vital instrument in the development of an individual and the society. It also empowers those that receive it to understand and claim their other rights, hence the need to ensure that every child receive it. Recognising this importance, the GoZ, soon after independence in 1980, ensured that there was marked increase in the number of primary and secondary schools. Education became more accessible in remote areas, whilst the upsurge in the number of trained teachers witnessed a phenomenal increase in literacy levels and pass rate.

In spite of these early phenomenal efforts, the nation started to experience declines in both access and quality from the mid-90s. The period between the late 90s and 2008 have been most significant in this decline, largely attributed to social, political and economic turmoil that the country experienced.. In 2008, only 20% of pupils passed primary exams and the pass rate at O levels also went down steeply.⁶ A number of factors contributed to the poor quality of education. These included; untrained teachers, dilapidated infrastructure, lack of motivation of teachers, high text book to pupil ratios and unaffordable school fees.

Currently, many schools require funds to repair damaged buildings or to buy desks and chairs for the pupils. For example, Pupil Sitting Place Ratios show that 30% of the schools in the country have 1 seat to 7 pupils and above, and only 20% of schools have one seat per pupil.

Recommendations

1. The Government of Zimbabwe, through the Ministry of Education Sport, Arts and Culture (MoESAC), should abolish tuition fees and levies and introduce universal free primary education and to subsidise tuition fees and levies in secondary schools by December 2013.
2. The Government of Zimbabwe should introduce initiatives that increase the quality of education such as in-service training for all operational teachers and incentives for teachers by December 2013.

⁶ ZIMSEC, 2009, Education at Glance, The Government Printers.



3. The Government of Zimbabwe, through the Ministry of Finance in liaison with MoESAC, should allocate school grants specifically targeted at infrastructure and maintenance with particular focus on remote rural areas by the end of 2014.

JUVENILE JUSTICE

Problem Description

A juvenile justice system is premised on the understanding that children, by their nature, are vulnerable. Therefore, they may not be able to competently stand trial and have not attained culpability which is necessary in administering justice. In view of this, it is imperative for there to be a juvenile justice system that deals with children in contact with the law.

In addressing the above, GoZ promulgated Section 351 of the Criminal Procedure and Evidence Act which provides for the manner of dealing with juveniles in contact with the law. It states that a court which has convicted a person under the age of 19 years may, instead of imposing punishment or imprisonment for that offence, order that the juvenile be taken before a Children's Court and be dealt with in terms of the Children's Act.¹ This provision promotes a more rehabilitative method of dealing with juveniles in contact with the law. This has advantages in that upon this referral "the conviction shall not, for the purposes of any enactment, be regarded as a conviction"⁷ for the child.

Moreover, the GoZ promulgated laws in order to promote and respect the rights of the children in contact with the law. Such laws include the Constitution of Zimbabwe, Criminal Procedure and Evidence Act Chapter 9: 07, Children's Act Chapter 5: 06, and the Prison Act Chapter 7:11.

Despite the availability of the aforementioned statutes to regulate the juvenile justice system, the challenge has been that judges have not been applying the protections provided for in the provisions. Consequently, some children have had to go through the rigorous process of trial.

The other challenge is the use of corporal punishment as a form of sentence. The Constitution of Zimbabwe allows for corporal punishment on male juvenile offenders under the age of 18 years in execution of a judgment or order of a court.⁸ The Criminal Procedure and Evidence Act and the Prison Act then provide the manner in which corporal punishment should be administered.⁹

⁷ Section 351(7) of the CPEA

⁸ Section 15(3)(b) of the Constitution of Zimbabwe

⁹ See Section 351-353 of the CPEA and Section 101-105 of The Prison Act



The Supreme Court of Zimbabwe ruled that corporal punishment is “unconstitutional, being barbaric, inherently brutal and cruel, stripping the recipient of all dignity and self-respect and treating humans as non-humans.”¹⁰ Despite that ruling, the Government amended the national Constitution to allow corporal punishment on male juvenile offenders less than eighteen years of age in execution of judgement or order of court. Elsewhere (the school system included), corporal punishment has continued to be administered leading to, in some instances, severe injuries.

Recommendations

1. The Government of Zimbabwe should implement the Criminal Procedure and Evidence Act as read with the Children’s Act by December 2012 to ensure diversion of children from the criminal justice system.
2. The Government of Zimbabwe should abolish corporal punishment through a constitutional provision by December 2012.

SOCIAL PROTECTION

Problem Description

Social protection interventions seek to reduce the vulnerability of poor people and more so vulnerable children. There are several social safety nets whose purpose is to cushion vulnerable and poor families.

Zimbabwe’s social safety nets are premised on the Social Welfare Assistance Act of 1990. Some of these safety nets include the Basic Education Assistance Module (BEAM) which provides tuition assistance to Orphans and Vulnerable Children, the Social Development Fund, public assistance grant, free food distribution, child supplementary feeding, the Assisted Medical Treatment Order (AMTO), the grain loan scheme and the AIDS Levy. Some of these safety nets worked very well at their inception. However, the socio- economic situation that later prevailed during the late 1990’s onwards, compromised the delivery of assistance to poor families.

The currently available social safety nets are inadequate to meet the growing number of people including children living in poverty. For BEAM, the initiative does not offer holistic service to the children on the program. The safety net only pays for tuition fees for its beneficiaries despite the need for other educational costs like uniforms and school levies.

¹⁰ S v Juvenile 1989 (2) ZLR 61 (SC)



The public assistance program is an initiative whose purpose is to relieve distress and thereby preventing destitution among the vulnerable population. The program however has failed to capture all needy persons due to the low budget allocation for public assistance¹¹. The households on the program are given US\$20 each month. For the child headed households, this amount is insufficient to meet their basic needs. The public assistance program also does not have an exit strategy that will successfully wean off the beneficiaries.

The Department of Social Services under the Ministry of Labour and Social Services is the engine driving all social protection interventions. Currently, this Department does not have ample capacity to deliver quality service to children and vulnerable people timeously. The situation in the Department has further been compounded by the fact that the country does not have an operational social protection strategic framework to ensure effective delivery of service to vulnerable people and particularly children.

Recommendations

1. The Government of Zimbabwe should implement the Dakar Declaration that requires 20% of the national budget to be allocated to education, giving priority to the Basic Education Assistance Module (BEAM) that provides tuition assistance to orphans and vulnerable children by December 2012.
2. The Government of Zimbabwe should develop a sustainability strategy for all social protection initiatives by December 2013.
3. The Government of Zimbabwe, through the Ministry of Labour and Social Services, should establish a child friendly Social Protection (SP) Strategic Framework for effective service delivery by December 2012.

¹¹ Kaseke E. et al (1998); Transferring resources to poor households: the case of social safety nets in Zimbabwe; School of Social Work; Harare

