



# CHILD RIGHTS BAROMETER

# ZIMBABWE

2018

Measuring government efforts  
to protect girls and boys

## The Child Rights Network for Southern Africa (CRNSA)

The Child Rights Network for Southern Africa (CRNSA) was established in 2012 and was then registered in South Africa in 2015 (NPC (2015/171797/08). The vision of the Network is 'A Southern Africa where children's rights are respected, protected and fulfilled.' For this vision to be realised, the network promotes practices and policies that fulfil children's rights and welfare through national child rights networks. It also engages with regional and international institutions such as SADC and the AU for improved quality of life for children.

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November 2018

Series I of the Child Rights Barometer includes four countries: Zambia, Zimbabwe, Swaziland and Malawi.

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Published by World Vision International, in partnership with the Child Rights Network for Southern Africa (CRNSA). For further information about this publication, or for additional copies of this publication, please email:[musa.chibwana@crnsa.net](mailto:musa.chibwana@crnsa.net) or [Vianney.dong@wvi.org](mailto:Vianney.dong@wvi.org).

# Contents

7

Introduction

8

Methodology

14

Analysis and  
Policy Recommendations

48

Policy Conclusions

## Foreword

Safeguarding children's rights forms part of the core mandate of World Vision. As an organization we remain committed to advance the rights of children and come up with programs that contribute to the wellbeing of children through various community initiatives. In doing so, advocacy is a key driver that we mainstream to create a conducive environment for children to thrive and realise their full potential. Against the background of child violations, the Child Rights Barometer initiative is critical. This reflects not only our desire to create a child friendly Zimbabwe but this report is an essential reminder of the additional work we need to continue to do to protect children. With this barometer we measure progress, successes and identify gaps in the objective to protect boys and girls. I am delighted that in the report Zimbabwe generally scored high on the promulgation of laws and policies meant to protect children outlining a political commitment by the government in protecting children's rights. This is encouraging but we need to ensure that gaps are addressed and more importantly that there is an alignment of child rights related laws and policies to the constitution. Further, the barometer should give us a basis to further analyse quality issues around service provision. Most importantly as we continue to be guided by the need to "Leave No one Behind" we must indeed make this happen.. Services must be available, accessible and affordable for every child. It is the right thing to do. This report should strengthen our collective advocacy and create a better world for children.

EMMANUEL ISCH  
NATIONAL DIRECTOR

WORLD VISION ZIMBABWE



## Abbreviations

ACRWC	African Charter on the Rights and Welfare of the Child
AIDS	Acquired Immune Deficiency Syndrome
ART	Anti-Retroviral Therapy
CBO	Community Based Organisation
CDC	Children in Difficult Circumstances
DSW	Department of Social Welfare
DWACs	District Welfare Assistance Committees
HIV	Human Immuno-deficiency Virus
ICT	Information and Communication Technology
ILO	International Labour Organization
NCCC	National Coordinating Council for Children
NGO	Non-Governmental Organisation
LAB	Legal Aid Board
CoR	Commissioner for Refugees
MCDMCH	Ministries of Community Development, Mother and Child Health
NCLSC	National Child Labour Steering Committee
NCJF	National Child Justice Forum
OECD	Organisation for Economic Co-operation and Development
OVC	Orphans and Vulnerable Children
TEVETA	Technical Education, Vocational and Entrepreneurship Training Authority
UNICEF	United Nations Children's Fund
UNCRC	United Nations Convention on the Rights of the Child

## Introduction

Zimbabwe is a landlocked country situated in Southern Africa, which borders Mozambique to its east, South Africa to its south, Zambia to its north and Botswana to its west. Its population is around 13.1 million with 52 percent being female, 67 percent residing in rural areas and 48 percent being children. 4.5 million Children live in rural areas where they have limited access to social services and information. Those living in urban areas, however, are not immune. UNICEF further reported that around 72 percent of the population lives in consumption poverty with 1.6 million children living in extreme poverty.

The Government of Zimbabwe has ratified most child rights instruments such as the United Convention on the Rights of the Child (UNCRC), the United Nations Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (OPSC); the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (OPAC); African Charter on the Rights and Welfare of the Child (ACRWC) and many other related child rights instruments. However it is important to note that the Government of Zimbabwe has not yet ratified the Hague Convention on the Protection of children and Co-operation in Respect of Intercountry Adoption. This convention is an international agreement to safeguard intercountry adoption and is relevant in the foster care process as it is evident that most adoptions begin as foster care cases.

At national level Zimbabwe has a progressive Constitution epitomised by Section 81 which is a Bill of Children's Rights and the Children's Act Chapter 5; 06 which is currently under review.

Traditionally children were regarded as key to society, hence, their protection has been rendered an issue of particular concern to the whole community. Zimbabwe as a nation is endowed with rich cultural practices when it comes to children and how they are taken care of and protected; this is enshrined in the cultural adage that the child does not belong only to his immediate family but also to the community at large. Traditionally, within the Zimbabwean context orphans and vulnerable children were taken care of by the extended families that would have the responsibility to care and support them and would also be supported by the community through the Zunde Ramambo care and support network. These support networks for OVC were conceptually referred to as ubuntu. However the difficult socio political and economic context resulted in the overstraining of the government hence was unable to cater for all children and families in need of care. This was worsened by the devastating effects of HIV/AIDS pandemic which has seen over 1.6million orphans and vulnerable children needing urgent care and protection.

# Methodology

The CRB is designed to encourage regional cooperation, stimulate more robust implementation of the UNCRC, and serve as a policy analysis tool for civil society, governments and donors. It consists of 861 main indicators that together measure a state's policy and actions to protect and care for girls and boys under their jurisdiction. The CRB framework of indicators heavily relies on the Implementation Handbook for the Convention on the Rights of the Child, published by UNICEF. The Handbook provides a series of yes, no and partially-implemented checklists to create an understanding of each UNCRC article's significance. The CRB uses these checklists as core indicators to measure state performance.

To read the CRB, a score of one is a perfect score; the lower the score, the weaker the action; the higher the score, the stronger the action for children.

## Dimensions of Government Action

The CRB measures five dimensions of government action for each of the articles of the UNCRC that refer to child protection. These five dimensions are: policy and law, services, capacity, coordination and accountability.

### Policy & Law

The dimension of policy and law scores a country's efforts to create policy, laws and regulations that protect and care for children in situations of violence and vulnerability.

### Services

The dimension of services measures a country's efforts to provide services that respond to children at risk or experiencing exploitation or in need of special care.

### Capacity

The dimension of capacity scores a country's efforts to provide resources, staff, infrastructure and equipment necessary to adequately implement its policies and services for children.

### Coordination

The dimension of coordination scores a country's efforts to effectively coordinate between different ministries, agencies and levels of government.

### Accountability

The dimension of accountability measures a country's efforts to create accountability of public sector actions and formalise responsibilities so that public sector actors know their roles and limits of responsibility.

# Methodology

## CRB framework

The framework includes a series of 861 main indicators that together measure a state's policy and actions towards greater child protection. The indicators are drawn from four sources.

**The first set of indicators** comes from Article 4 of the UNCRC. This Article requires that states apply all appropriate measures within the toolbox of government action to achieve child protection. The CRB refers to this category as “the governance environment” for child protection. An example of the governance environment indicator is: has a consolidated law on the rights of the child and child protection been adopted?

**The second set of indicators** is based on Article 2 of the UNCRC. This Article requires that states respect and ensure the rights set forth in the Convention to each child within their jurisdiction without discrimination of any kind, and take all appropriate measures to ensure this requirement.

**The third set of indicators** comes from Article 7 of the UNCRC. This Article requires that children are registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by their parents. Article 7 requires all State Parties to ensure the implementation of these rights. Birth registration is considered to be a fundamental child protection right.

**The fourth set of indicators** uses specific child protection articles from the UNCRC and principles from the systems approach to child protection as the common foundation and matrix for its qualitative indicators. To unpack each Article’s requirements, the CRB framework relies on the Implementation Handbook for the Convention on the Rights of the Child published by UNICEF. The Handbook offers analysis on each UNCRC Article from the Committee on the Rights of the Child’s Concluding Observations in over 300 different opinions.<sup>3</sup> The Handbook provides a series of “yes”, “no” and “partially-implemented” checklists to create an understanding of each Article’s significance. The CRB uses these checklists as core indicators for the framework. The qualitative indicators are “yes”, “no” and “partially-implemented” questions that measure a state’s (i) Policy/ legal and regulatory framework; (ii) Services, processes, mechanisms; (iii) Capacity; (iv) Accountability; and (v) Coordination and cooperation in relation to the UNCRC articles on child protection. These key elements are necessary to achieve a functional child protection system.<sup>4</sup> UNCRC articles chosen are those associated with every child’s right not to be subjected to harm and a state’s duty to protect and care for children vulnerable to harm.

### Data collection & validation

The Zimbabwe national data collection team included 11 child rights experts, and two legal experts selected in order to acquire a variety of expertise. A training workshop led by the CRB Data Manager (and co-author of the CRB framework) provided training to the team prior to collection. In the first stage of collection, groups of two experts collected data independently on selected sections of indicators (using reports, studies, articles, statistics data, etc.) to validate a “yes”, “no” and “partially-implemented” responses to each CRB indicator. In this way, two experts reviewed the same indicator separately. Where such evidence-based information was not available, interviews with relevant stakeholders and information based on the personal experience of professionals with relevant expertise in that particular field were taken into account.

After the completion of individual review and validation, responses provided for the same indicator

by two different experts were considered and compared side-by-side by the CRB Data Manager. Responses found to be inconsistent between the two experts or that lacked sufficient validation required further review and evidence gathering. The two experts assigned to the same indicator again in group work reviewed and discussed the evidence and sought additional information when needed. Joint answers provided by each sub-team were further reviewed by the CRB Data Manager. Three to four reviews were required for the entire review process, in order to reach final agreements on each indicator considered.

A final cross-check of information provided under the various sections of the CRB framework was performed by the CRB Data Manager before finally validating the National CRB, with the support of the National Coordinator and the team of experts.

### Scoring

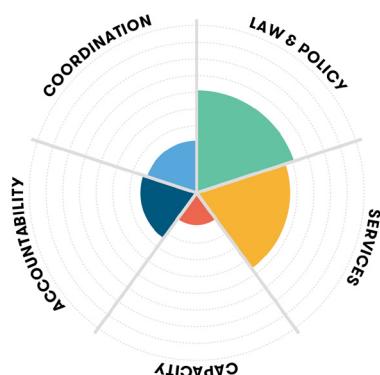
Each qualitative indicator required a “yes,” “no,” or “partially-implemented” answer. To score the results, “yes” = 1, “no” = 0, and “partially-implemented” = 0,5. In situations where several sub-indicators contributed to one main indicator, the final main indicator score is calculated as an average of the scores of its sub-indicators (e.g.  $1+0,5+0+1+0,5 = 3 : 5 = 0,6$ ).

An average score was calculated for three of the four sources of indicators, 1) Governance Environment, 2) Birth Registration, and 3) Non-discrimination. In the case of the main source (UNCRC Articles analysed with the Child Protection Systems Approach), each UNCRC article and its indicators is scored separately (to create one average score per article). The final (overall) CRB score is calculated as an average of all the main indicators included under all the components of the CRB framework; this way, each main indicator is equally contributing to the final (overall) CRB score.



## Overview of Performance

<b>MALAWI</b>	.512
<b>ZAMBIA</b>	.510
<b>ZIMBABWE</b>	.432
<b>SWAZILAND</b>	.394



For all the child protection indicators that this study focused on, Zimbabwe consistently scored relatively high on promulgation of laws and policies meant to protect children. This high score shows general political commitment by the government in protecting children's rights. It is worth noting that the second highest area of ranking is service provision. The government has put in place general measures for the provision of the rights. The question however is about the quality of the services that is being provided. This is explained by the lowest score, which is on capacity. Low capacity speaks to limited resources (financial, human, infrastructure) allocated by the state party to ministries relevant to children. Whilst coverage may have a national character, the results here are showing that the quality of those services would need to be improved. Low capacity also speaks to limited resourcing of the institutions that deliver on child protection.

A comparison of the four CRB countries shows that Zambia has the highest score of 0.51 in all the child protection indicators. Malawi comes second with 0.493. Zimbabwe is third with 0.434 whilst Eswatini is the least of these countries with 0.384. Zambia is the only country that exceeded the fifty percent mark since the highest attainable score is 1. The other three countries are below this threshold meaning that whilst mechanisms are in place to protect children from abuse, implementation is limited. It also means that the countries indeed have the frameworks but do not have well financed institutions decentralised to all corners of the country for ensuring protection of children from all forms of abuse.

Overall, Zimbabwe has done well by ensuring that children's rights are justiciable. Section 81 of the 2013 national constitution is dedicated to children. The constitution provides that any law that is not in consonance with it will be annulled to the extent of the conflict with the constitution. The relevant children's laws will need to be harmonised with this constitution and that process is taking a lot of time. What remains however as this report will show is resource prioritisation for the implementation of the constitutional provisions.

The Achilles heel of the country is its unclear coordination mechanism for children's issues. The country has not yet established a permanent mechanism of government to ensure coordination of policy related to children. The Child rights Policy which was developed by the National Programme of Action for Children department within the Ministry of Health and Child Welfare with the support of Save the Children and UNICEF was meant to resolve the issue of who coordinates children's issues in Zimbabwe. However, the draft Child Rights Policy is yet to be tabled before Cabinet. It has been an outstanding issue, and been so much back and forth on this issue since 2011.

# Analysis and Policy Recommendations

## Governance

ZAMBIA	 .648
MALAWI	 .604
ZIMBABWE	 .304
SWAZILAND	 .291

Generally, governance refers to the process of rulemaking and enforcement, and the CRB reviews whether a government has pursued aspects of good governance in its implementation of the UNCRC. Good governance upholds citizen rights, provides transparent access to information, relies on consistent decision making and rule of law and pursues furtherance of the public good.

Zimbabwe scores 0,304 out of a possible 1,0 and ranks third out of the four CRB countries considered for this exercise. The score mainly reflects the weakness of the formal bodies that monitor and hold accountable actors tasked with child protection. Zimbabwe is in process of consolidating the legal framework addressing children, with the Children's Amendment Bill and the Child Justice Bill expected to be finalized this year (2018). The review will ensure the alignment of laws with the 2013 Constitution of Zimbabwe which has provisions for children that are in line with the UNCRC.

While the general principles of the UNCRC are reflected by the legislation in the country, and it is possible to invoke these principles before the courts, the Convention does not take precedence over the domestic law (where there is a conflict), as international treaties and conventions that have been ratified by a government representative on behalf of the government of Zimbabwe shall not be binding unless they have been domesticated or incorporated into an Act of Parliament.

Zimbabwe did not establish yet a permanent mechanism of government to ensure coordination of policy related to children. The Child rights Policy which was developed by the National Programme of Action for Children department within the Ministry of Health and Child Welfare with the support of Save the Children and UNICEF was meant to resolve the issue of who coordinates children's issues in Zimbabwe. However, the draft Child Rights Policy is yet to be tabled before Cabinet. It has been an outstanding issue, and been so much back and forth on this issue since 2011. Also, no permanent and effective mechanisms have been established to allow evaluation of policies related to children and monitoring of their implementation, and also the budgetary analysis to ascertain the proportion of overall budgets devoted to children and eventual disparities related to particular groups of children or regions in the country.

The next step should include building and strengthening the coordinating and monitoring bodies between ministries to widen efforts to address child protection. Such bodies could unify tasks and outcomes by managing responses to the public sector that take into account all ministries and views. It is also recommended that Zimbabwe strengthen the relevant monitoring bodies to further secure the place of children within the realm of debate and accountability.

Regular conversation between finance and social protection authorities is also recommended. Without an established mechanism to review budget and expenditure on a yearly basis, officials may be limited in their ability to set accurate and aligned budgets. Budget analysis for all child protection issues should review the proportion of overall budgets devoted to children

and identify any disparities between Zimbabwe's regions, rural/urban areas and particular groups of children. It is important that officials are able to verify that sufficient funding reaches the most disadvantaged groups of children.

Zimbabwe should consider establishing a permanent Government mechanism at national level for consulting on matters relating to policy development and implementation related to child protection with relevant NGOs and children themselves. Currently, NGOs are playing a critical role in bridging the gap of child participation by engaging the junior parliamentarians and children in general when consulting on issues of policy development and implementation

Parliament should also establish a formal body on child protection with a clearly defined mandate to monitor child protection in Zimbabwe and respond to specific issues when they arise. The parliamentary group should meet at regular intervals to align discussion with the legislation cycle.

Zimbabwe has mandated a Human Rights Commission that also promotes the rights of children (it includes a working Group on Children's rights). Consideration should be given to increasing the human and financial resources for the Human Rights Commission in order to broaden its activities in this field. Otherwise it may be difficult to lodge complaints against various government bodies when there are allegations of child rights violations.

## Non-discrimination

ZAMBIA	 .625	Article 2 of the UNCRC and Article 3 of the ACRWC require State Parties to respect and ensure the rights set forth in the Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
ZIMBABWE	 .500	It also requires States Parties to take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.
MALAWI	 .437	
SWAZILAND	 .375	

On the Article 2 related indicators, Zimbabwe is scoring 0,5 out of a maximum possible of 1, pointing to the fact that further action is needed to fully align Zimbabwe's legal and regulatory framework provisions with the UNCRC requirements. Changes are required to fully recognize, without discrimination, the rights of the children in the jurisdiction, including non-nationals and illegal immigrants. Further, Zimbabwe has not yet fully developed (in relation to girls) a comprehensive implementation strategy for the Platform for Action adopted at the Fourth World Conference on Women, taking into account the recommendations of the 2000 and 2005 Reviews. Also measures and programmes, relevant to the Convention, in order to follow up on the Durban Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance have not been developed yet.

Other issues that need attention is the fact that Zimbabwe is not properly monitoring the realization of each right guaranteed in the Convention, and that it is not collecting and reporting disaggregated data to enable effective monitoring of potential discrimination against various vulnerable categories of children. While, for instance, children with disabilities are identified and recognized as a particularly vulnerable group, lack of data collected by Zimbabwe for this group of children does not allow for an adequate strategic planning for developing support and response mechanisms (reflected by the low score recorded on this particular CRB component – see article 23), and potential discrimination cannot be properly monitored.

## Birth Registration

**ZAMBIA**


Name and nationality are every child's right, enshrined in the Convention on the Rights of the Child and other international treaties. Registering children at birth is the first step in securing their recognition before the law, safeguarding their rights, and ensuring that any violation of these rights does not go unnoticed. Universal birth registration is also part of a system of vital statistics, which is essential for sound economic and social planning. Birth registration is therefore not only a fundamental human right, but also a key to ensuring the fulfilment of other rights.

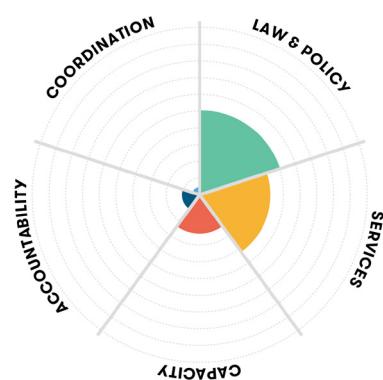
Zimbabwe's birth registration rate of 44 percent is slightly higher as compared the average of the region (41%). As compared to the other three countries included in the CRB, Zimbabwe's birth registration rate is lower than that of Malawi and Swaziland (with 67 and 54% respectively), and higher than that of Zambia (11%). Non-registered children may be at risk to be excluded from receiving elementary education, health care and social assistance. Birth registration is also essential in protection efforts, including: preventing child labour by enforcing minimum-employment-age laws; ensuring that children in conflict with the law are not treated (legally and practically) as adults; countering child marriage; and reducing trafficking, as well as assisting children who are repatriated and reunited with family members.

Zimbabwe's 0,777 CRB score on Article 7 reflects the fact that the country has taken important steps towards aligning its birth registration policies with the UNCRC requirements. Further steps would be required to increase accessibility to birth registration through a more proactive approach of the state authorities to identify unregistered children and secure their registration, including (if the case) through dedicated mobile registration units. Accessibility could be further improved by increasing comprehensibility for all minority groups (as not all minority languages are currently captured to explain the birth registration procedures). Further steps should also be taken to secure the birth registration of all children born within the jurisdiction, including those born of non-citizens.

The government should circumvent all legal and administrative barriers on access to birth registration through harmonization of the Births and Deaths Registration Act and other laws in line with the Constitution. In addition, the government should conduct data collection in order to know the ration of birth registration in urban and rural areas disaggregated by age and sex. Furthermore, the government should fulfil its obligation of ensuring that every child is registered immediately after birth, is named, and acquired nationality by playing a pro-active role such as launching education and sensitization campaigns on birth registration to parents and community leaders; and ensuring proper coordination between the central civil registration authority and other civil registration offices across the country in line with the ACRWC's General Comment on Article 6 of the African Children's Charter.

## Preventing Child Family Separation: Helping Families Stay Together

ZAMBIA		.484
MALAWI		.455
SWAZILAND		.361
ZIMBABWE		.300



Article 9 of the UNCRC and Article 19 of the Children's Charter require that the State should ensure that the child has the right to live with his or her parents unless it is not deemed to be in his or her best interest: the child has the right to maintain contact with both parents if separated from one or both parents. A competent authority is to judicially determine in accordance with applicable law and procedures, that such separation is necessary for the best interest of the child. Circumstances which places the responsibility on the state to make such determination are for example, those involving abuse, neglect by parents or living separately and a decision has to be made.

On the Article 9 related indicators, Zimbabwe is scoring 0,300 out of a maximum possible of 1, pointing to the fact that further action is needed to support the child of the to live with parents, or to be separated if it is deemed in the best interest of the child. Out of the four CRB countries, Zimbabwe is ranking fourth, following from a distance Zambia (0,484) and Malawi (0,455), and scoring close to Swaziland (0,323).

Zimbabwe has made limited progress to help families stay together: law and policy (0.51), services (0.43), capacity (0, 2), coordination (0,055) and accountability (0,11).

The highest score is on policy (0.51) indicates a fair Zimbabwe has legal and policy framework to protect the right of the child with his or her parents. These rights are enshrined in the Children's Act and the Constitution. Paragraph (i) of sub section 1 of section 81 of the Constitution, every child has a right not to be detained except as a measure of last resort. In addition, sub section 2 of Section 81 of the Constitution, a child's best interests are paramount in every matter concerning the child. Thus, the State upholds the right not to be separated from parents, unless otherwise it is in the best interest of the child

Zimbabwe has legal and policy framework to protect the right of the child with his or her parents. These rights are enshrined in the Children's Act and the Constitution. Paragraph (i) Section 2 of Section 81 of the Constitution, a child's best interests are paramount in every matter concerning the child. Thus, the State upholds the right not to be separated from parents, unless otherwise it is in the best interest of the child. Though the rules and procedures are in place for placements, not all separations are overseen by competent authorities as evidenced by incidents of children with expired paper work or none.

Service provision is below reasonable (0.4) as much of it is donor driven. Programmes helping families to stay together have evolved with the evolution of the National Action Plan (NAP) for OVCs. There are many factors which are drivers to family separation which include separation because of death, and HIV/AIDS has been a major driver which was the main driver for NAP I. Economic deprivation has also resulted in family separation. Zimbabwe, through National Action Plans for Orphaned and Vulnerable Children aims at helping families to stay together.

Zimbabwe is committed to children enjoying the right to live with their

parents through the implementation of the National Plan for Orphaned and Vulnerable children (NAP). After drawing lessons from the National Action Plan I and II, the State is rolling out NAP III as a way of ensuring that there is policy implementation to uphold such rights. NAP III is building on the harmonised cash transfers and the national case management systems. Supported by a pool of funders; Government and Civil Society are implementing the harmonised cash transfers, training of case management officers and community child care workers, and strengthening access to services. Efforts in addressing poverty and livelihood issues at the household level are commendable, as they address poverty issues which other are driver to child separation. A monitoring and evaluation programme is in place, "Promise Quality" which generates data on the quality of care. The NAP III for OVC is largely partner-funded like the previous ones. This means that if achievements are not institutionalised and incorporated into Government budget and systems, the gains are not sustainable, hence a low score. It recommended that the budget to keep families together, be funded largely by Government as opposed to partners.

Zimbabwe needs to have a budgetary allocation to support the NAPs beyond seconding human resource, office and technical input, which has been the case for the three National Action Plans for Orphans and Vulnerable children. The Programme approach to the NAPs has resulted in Government not owning the process, as evidenced by lack of status and outcomes of intervention in the public domain. The Government website does not have any information with regards to the outcomes of past and present National Action Plans.

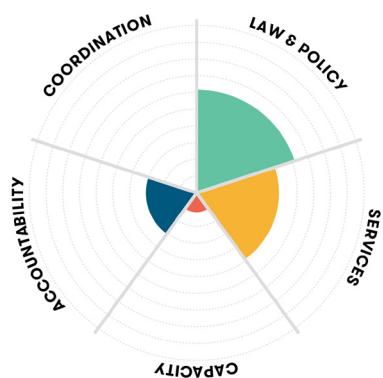
Coordination score is very low (0,05) and accountability is weak (0,11). Capacity is very limited (0,24) and implementation low (0,21).

**Recommendations:** Zimbabwe need to enhance its capacity to ensure that a guided by existing legal There are legal provisions for initiating separation, all separation if deemed in the best interest of the child, should be State initiated and executed. Budget allocation to support keeping families to be stay together are needed.

More resources are need for counselling and support services to keep children together. Zimbabwe needs to improve the capacity for state provided counselling by ensuring that the DSW offices are child friendly, and that counsellors are registered with the Social Workers Council. Zimbabwe needs to establish and publicise the accountability mechanism available through Human Rights Council's Thematic Group to protect the rights of children.

## Prevention And Response To Violence Against Children

ZAMBIA	.485
MALAWI	.388
SWAZILAND	.323
ZIMBABWE	.289



The right of the child to freedom from all forms of violence as stated by Article 19 of the United Nations Convention on the Right of the Child (UNCRC) and Article 6.1 of the African Charter on Rights and Welfare of the Child (ACRWC) is a major policy issue in most developing countries like Zimbabwe. Article 19 of the UNCRC provides that States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child. The article further states that "such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement."

Article 6.1 of the ACRWC provides that State parties shall take specific legislative, administrative, social and educational measures to protect the child from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment including sexual abuse. In recognition of this, Zimbabwe ratified the UNCRC in 1990 and the ACRWC in 1995. The country enacted legislative instruments and developed policies that seek to protect and promote the rights of the child against all forms of violence. In this policy brief, we discuss the results of the Child Research Barometer CRB on the dimensions of Zimbabwe government's action to protect children from all forms of violence. This article also proffers recommendations for improvement.

In this CRB, implementation is the average score of services, coordination and accountability. Zimbabwe scored an average total score of 0.289 out of a possible 1 in terms of its progress on commitments to the UNCRC's Article 19. This very low score reflects that the country is not doing enough to fulfil its commitments to protect children from all forms of violence under Article 19. The country's efforts to protect children from all forms of violence are most evident in laws and policy (score of 0.624) and services (score 0.500). However, Zimbabwe has very low scores on capacity (0.125), accountability (0.312) and coordination (0.023).

Of the four CRB countries in this study, Zambia has the highest score of 0.485 in efforts of preventing violence against children. Malawi is second with 0.388 whilst Eswatini scores second lowest with 0.323 only better than Zimbabwe which has 0.289.

Zimbabwe's high score on the legal and policy dimension implies the country has put in place policies and regulations to protect children from all forms of violence. Some of the policies include the Nation Action Plan for Orphans and Vulnerable Children which is now in its third phase. Zimbabwe has a progressive Constitution which provides for the protection of all people from all forms of physical or psychological torture or to cruel, inhuman or degrading treatment or punishment. The Domestic Violence Act also provides for the protection of children from all forms pf physical and mental violence. Despite

having these laws, there is still room for Zimbabwe to improve on the policy dimension.

Zimbabwe scored very poorly on the capacity dimension. The low score signifies that although the country is providing child protection services through Child Care Workers and Child Protection Committees, the country has a very low capacity. Like other government departments, the Department of Social Welfare is heavily underfunded. This has seen the department failing to be adequately resourced in terms of staff. Further, the department has failing to retain qualified social workers. Due to lack of financial and human resources capacity, the DSW is therefore failing to protect children from all forms of violence. It is therefore recommended that there is a need for the government to invest in developing and employing adequate financial and human resources to deliver on its commitment to the UNCRC.

Accountability is still very low in the provision of child protection services. Monitoring of child care facilities is done by the Department of Social Welfare. However, in practice the monitoring is not systematic. It is therefore recommended that there is a need for an independent monitoring body to improve accountability. There is also a need to develop systems for external monitoring of service provision in child care facilities. This should include timely collection and reporting of the monitoring data. The complaints handling mechanism is not child friendly and easily accessible. Children in a residential care facility are required to report their grievances to the head of the child care facility. In most cases, these authorities are unavailable and inaccessible by the children.

Coordination of child protection services between state, agencies and other stakeholders is very poor in Zimbabwe. The country developed the Multi-Sectoral Protocol on Management of Sexual Abuse and Violence in 2012 to assist victims of child abuse to access a holistic package of age and gender sensitive and survivor-centered services for their psychosocial well-being and protection by the welfare and justice systems. However, the coordination of policies and implementation is not effective due to fragmentation of responsibilities. Further, case management has not been really implemented in practice as there is no specific multidisciplinary coordinated response planned and implemented for each case, despite the adoption of the Multisectoral Protocol in 2012. It is therefore recommended that the state needs to put aside resources to implement the case management system.

Despite a significantly low score on capacity, Zimbabwe scored highly on services. This suggests that services are being provided through collaborative efforts with NGOs. The state provides services to ensure identification, assessment, support and referral of child victims of any form of neglect, violence or abuse. These services are provided through the Department of Social Welfare (DSW) and Child Care Workers. Wards in urban communities are supposed to have 5 Social workers. However, urban communities may be so big such that the CCWs may not be known. The reporting mechanisms that are provided by the state are not easily accessible by children. For instance, victims have to report at the Victim Friendly Unit which may be distant from where they are. It is therefore recommended that there is need for the state to increase staff compliment in the DSW at a local level to improve service delivery.

Implementation represents the average score of services, capacity, accountability and coordination. It is not surprising that the country scored lowly on implementation. Despite developing a progressive Constitution and the Domestic Violence Act which prohibit physical and mental torture of children, the laws have not yet been harmonised to do away with corporal punishment. The low implementation score thus shows is that the country relies too much on the NGOs and other private actors to provide child protection services. It is therefore recommended that there is need for the country to be more proactive and invest in its own resources in developing adequate response mechanisms and capacity to protect children from all forms of violence.

In Zimbabwe, the gap between policy and implementation is 0.407 which is not high. This reflects that the currently is on the right direction in terms of its laws and policies to protect children from all forms of violence. However, the high gap shows that the country is doing very little to implement its commitments to the UNCRC. For instance, while the country has adopted a progressive constitution, the process of harmonisation of laws is being done at a very slow pace. It is therefore recommended that there is need to improve efforts on both laws and implementation. This article therefore concludes that despite scoring high on the laws and policies, and very low on implementation, Zimbabwe needs to improve on the other dimensions to meet its commitment to the UNCRC under article 19.

## Alternative Care

ZAMBIA		.409
MALAWI		.376
ZIMBABWE		.358
SWAZILAND		.273

The State has an obligation to provide special protection for children without families and to ensure that appropriate alternative family care or institutional placement is made to them, taking into account the children's cultural background. In accordance with the UN CRC Article 20 and the Children's Charter Article 25 the State has a duty to allow and help maintain contact between the child and parents. The UNCRC maintains that the bond and relationship between parent and child is an important child right. Family and, specifically, parental connection fosters the emotional development of personhood.

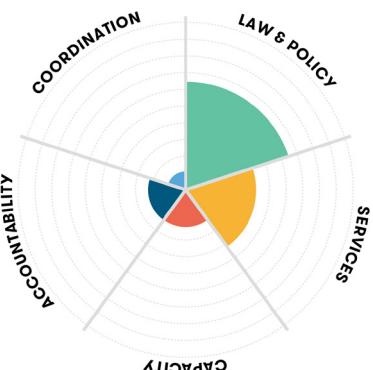
On the Article 20 related indicators, Zimbabwe is scoring 0,358 out of a maximum possible of 1, pointing to the fact that further action is needed to support the child separated from the family environment.

Zimbabwe has limited progress in protecting the children separated from family with an above average policy and legal provision (0,655), limited services (0,430) and capacity (0,231) and consequently implementation is limited. Coordination is very low (0,119). Accountability is 0.233. The gap is 0.386 meaning that there are laws in place which are not being implemented. It shows that the general measures of implementation are not financed and decentralised for all children to enjoy their rights.

Of the four CRB countries in this study, Zambia has the highest score of 0.409 followed by Malawi with 0.376, with Zimbabwe on 0.358 and lastly Swaziland with 0.273 on protecting children deprived of family environment.

Zimbabwe needs to strengthen capacity to set as well as monitor counselling and support services, of more than 100 Residential Child Care Facilities that shelter children separated from families. Though residential care is the option of last resort, it is the one used more than the other options. The aspects of kinship care, is not officially acknowledged and documented, yet it is the traditional social safety net, albeit under threat with the change in family structures, social mobility and relocations.

The UPR review noted the rising number of children separated from parents who are in need of alternative care. The reasons are varied including, orphan-hood, abandonment for various reason which include economic reasons. More action is required to deal with the push factors. Zimbabwe must adopt policies and measures to ensure that in matters relating to children, the best interests of the children concerned are paramount.



Category	Score
LAW & POLICY	0.655
SERVICES	0.430
CAPACITY	0.231
ACCOUNTABILITY	0.233
COORDINATION	0.119

Information gaps exist on numbers and effects of child separation due to divorce, migration for economic reasons, children living on the streets and in prisons, internal displacements and generational impacts of past internal conflicts, which are Zimbabwe's specific phenomena. Accountability is therefore compromised. Periodic reporting guidelines asks that states must provide information on legal or administrative measures that are securing the best interests and respects for the views of children are addressed when separation from parents occurs. Data and number of affected children needs to be disaggregated by causes e.g. due to poverty, abandonment and other causes.

Zimbabwe has since 2004 worked on protecting vulnerable children, inclusive of those who are deprived of families. The National Action Plan for OVCs (NAP 1) aimed at addressing a large number of children in need. Through the Programme of Support (PoS), 410 00 OVC were supported and 560 000 OVC beneficiaries assessing education support. After the review, the Programme of Support was proceeded by the NAP I, funded through the Child Protection Fund. The PoS and CPF differ from the conceptual and strategic change from the narrow targeting of the individual child in relation to HIV Status to a child sensitive protection approach. The CPF aimed at reducing poverty for 55 000 families, enhance access to effective child protection services and improved access to education services. The roll out premised on “cash plus care” generated lessons. The Child Protection component was based on the development of a national case management system, (NCM) as a core response to children’s vulnerability. CPF which was implemented in 2011 to 2016 achieved the following results: training of 47 district Case Management Officers, and 9 365 community child case workers. The NAP III launched in December 2016, is building on the harmonised cash transfers and National Case Management system developed through the CPF (UNICEF Media Centre, Nov 2017).

Zimbabwe, through the Children’s Act, makes legal provision for protection of children without families. None state actors provide the bulk of the alternative care services as well as kinship care, whilst the state offers some limited legal and occasionally financial support. The 2014 Residential Child Care Facility survey interviewed 102 Residential Child Care Facilities, 90 of which are registered. The latter have a holding capacity of 4421 which was not fully utilised by a couple of hundreds, then. Residential Child Care Facility Guidelines were published in 2010 as a way of benchmarking the minimum standard of care. Following the 2014 survey, it hoped that some aspects of the survey could be done electronically, and then the qualitative aspects done periodically.

Zimbabwe has limited capacity to monitor Residential Care Facilities. There should be no unregistered facilities that are operational. All unregistered service providers should be closed down until they have the necessary licencing. Further, not only residential care services provided by NGOs should be registered. There are maybe day care centres, or pure social support services provided by NGOs (it is the case in other countries, and it could be the case in Zimbabwe). Registration and licensing should not be limited to residential care. Any services provided should be registered, licensed and monitored. This is an important accountability gap that requires urgent attention.

Access of children to complaint mechanisms (in relation with services provided to them) is very limited. Existing mechanisms are not child friendly and have not been developed with the direct consultation of children themselves. Such mechanisms need to be developed. The Human Rights Commission’s thematic group to protect the rights of children is one of the avenues, however this covers only human rights-based issues.

### Recommendations

Laws and policy environment: Zimbabwe needs to ensure adequate safeguards and clear criteria, based on the needs as well as best interests of the child, for determining whether a child should be placed in alternative care.

**Services:** Zimbabwe need to match the rising number of children in residential care, compared to low number of family-based placements of children, with matching human and financial resourcing of the existing residential care facilities.

**Capacity:** Ensure the training of all professionals including social workers, police, and education and health officers in contact with children, on child protection laws. The training of 47 Case Management Officer and 9365 Community Care Workers in the CPF 2011-16, has increased capacity. It is hoped that NAP III will sustain the momentum, and effectively institutionalise the capacity beyond a funded programme.

Zimbabwe needs to ensure adherence to the Minimum Standards of Residential Care set for institutions and undertake periodic review of the placement of children in foster care and institutions, and monitor the quality of care therein, including by providing accessible channels for reporting, monitoring and remedying maltreatment of children. Furthermore, adequate human, technical and financial resources must be allocated to alternative care centres and relevant child protection services in order to facilitate the rehabilitation and social reintegration of children resident therein to the greatest extent possible.

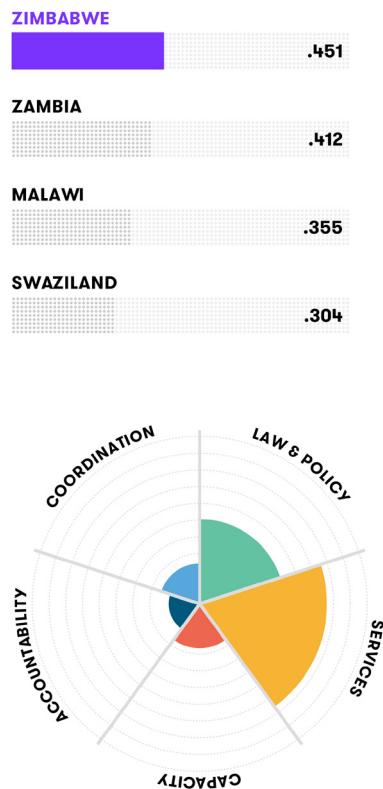
**Coordination:** Resources for coordinating need to be allocated to ensure that the children's rights are met with or without donor support for coordination.

**Accountability:** Zimbabwe needs ensuring that for children placed in residential care, it is the right of the child to have all aspects of that placement evaluated regularly. When the child's placement is not periodically reviewed in accordance with the CRC it means that there is no regular assessment of the child's situation. This means that the best interests of the child and the question of alternative solutions is not considered. Collection and collation of disaggregated data collection on children living in institutions, in foster care or in street situations needs to be regularly updated.

Zimbabwe's needs to ensure compliance with the Residential Facility Care Standards that it has produced by support and facilitate family-based care for children wherever possible, including for children in single-parent families, and further develop the system of foster care and child adoption, by integrating it with kinship care for children who cannot stay with their families, with a view to reducing the institutionalization of children.

A mechanism should be in place to monitor the counselling services of NGOs as well as the quality of care of all residential care services. Furthermore, there is need to ensure that society is well updated on the extent of the need to support children in alternative care, by availing such data on the responsible Ministry's website.

## Child Adoption



Zimbabwe is in compliance with the UNCRC with regards to making provision for child adoption in the best of interest of the child. Albeit, the efforts towards supporting the policy practice have been escalated in the recent past (2016-17) with enhance impetus gained from NAP for OVC III. Adoption has a limited uptake (on average 15, intra-country adoptions annually), yet there are more children who technically are in need of adoption, particularly orphaned and other vulnerable children, those living in the streets, and those in alternative care. The traditional foster system is the default mechanisms, that families and communities have relied on as “social safety mechanism” in the event of loss of parents often due to death or abandonment by one or both parents. However, other reasons such as child protection breaches, do not consist of the motivation for community/family safety mechanism to be activated. The current practice of “traditional fostering” is not linked to formal adoption; renders many children exposed to the unregulated “fostering”, which could be replaced by formal adoption. Adoption tends to be an elitist or practice by urban based communities.

Furthermore, there is limited utilisation of adoption services as in the cases of unwanted pregnancies or teenage mothers. The High Court maintains a database of would-aspiring adopting parents as well as the records of successful adoptions.

Adoption services are solely offered by the Government; hence the services are not spared the challenges that Government Services are often faced with such as limited financial, technical and experienced resource persons at all levels.

According to UNICEF, an estimated 70 000 illegal abortions take place annually, which could be a proxy indicator of poor sexual reproductive rights as well as inaccessibility of adoption as alternative to unwanted pregnancy. On the Article 21 related indicators, Zimbabwe is scoring 0,45 out of a maximum possible of 1, pointing to the fact that further action is needed to support adoptions.

Zimbabwe has made reasonable progress to facilitate adoptions law and policy (0,515 and services (0,769). However, there is limited capacity (0,271), coordination (0,250) and accountability 0,194. Of the four CRB countries, Eswatini ranks lowest with a score of 0.304 followed by Malawi with 0.355. Zimbabwe scores highest with 0.451 followed by Zambia with 0.412 in efforts to facilitate ease of adoption of children.

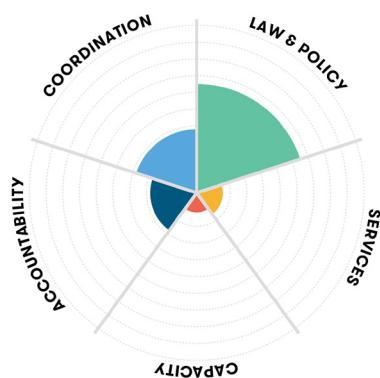
**Services:** There is a pressing need to explore the ways of formalising intra-clan kinship care to be the basis for formal adoption in collaboration with traditional leader to promote child protection granted it the popular default child protection safety net.

**Coordination:** There is need to enhance the coordination adoption services and collaboration with NGOs who run Residential Child Care Facilities, where there are children with no parents/family, who technically are eligible for adoption.

**Accountability:** Within the country context, the matter of preservation of the child's identity and the desirability of continuity in the child's background and to the child's ethnic, religious, cultural and linguistic background in adoption decisions is not raised in the Children's Act. A study to verify if this is a major issues to pursue is necessary, so as to guide adoption.

## Protection Of Children With Disabilities

ZAMBIA	.460
MALAWI	.442
SWAZILAND	.352
ZIMBABWE	.304



Article 23 of the UNCRC and Article 13 of the African Charter both agree that: children with mental and physical disability have a right to special care, education and training designed to help them to achieve the greatest possible self-reliance and to lead a full life in society.

On the Article 23 related indicators, Zimbabwe is scoring 0,305 out of a maximum possible of 1, pointing to the fact that further action is needed to support the child with disability. Zimbabwe has made reasonable progress in protecting children with disability. The scores as follows; law and policy (0,660) and services (0,167), capacity (0, 126), coordination (0,389) and accountability (0,287). Zambia has the highest score of 0.46 followed by Malawi with a score of 0.442 out of a possible 1,0 on its actions to protect children with disabilities. Swaziland's score is 0.352 and Zimbabwe has the lowest of 0.304.

Zimbabwe has in place several policy frameworks or achievements with regards to establishing a policy environment which protects persons with disability, hence an above average score of 0,659. For instance, Zimbabwe's constitution upholds the rights of persons with disability and the Disability Act was made law on 2014. Internationally Zimbabwe is compliant through the ratification of the Convention on the Rights of Persons with Disability in 2013. Zimbabwe made a submission to the Universal Periodic Review in 2013. The Zimbabwe Constitution recognises the inherent dignity and worth of each human being, equality of all human beings, equality of human beings, gender equality and the rights of persons with disability. Section 22 of the Constitution states that the State shall consider the specific requirements of persons with forms of disability as one the priorities of development plans. Section 83 is dedicated to the rights of person with disability. The state has an obligation to take appropriate means within the limit of resources available to enable person with disability to becomes self-reliant, to live their families, and participate in social and recreational activities to protect them from all forms of exploitation to abuse to give them access to medical, psychological or functional treatment, to provide special facilities for their education to provide state funded and training. Without being specific to children the general legal environment covers the rights of children. Health, medical care and independent living are guaranteed by law to person with disability. Furthermore rehabilitation and psychosocial services are licensed under the Health Professions Act, Medical Services Act and Health Services Act, which requires any health institution public or private to be licensed.

The Human Rights Commission is mandated to monitor the state of affairs with regards to upholding the rights of persons with disability. However, there are very limited services (0,166), capacity (0, 126), coordination (0,388) and accountability (0,287). The scores are indicative of the limited capacity (both financial and human resource), which result in the limited implementation of the legal provisions. NGOs are undertaking some of the service provision.

Below is list of implementation gaps that need attention:

Laws and Policy Environment: Ensure all relevant policies to pave way for

implementation of the Disability Act and Constitutional Provisions are in place. Zimbabwe needs to adopt a human rights-based approach to disability by adopting measures to eliminate the stigmatisation and exclusion of children with disabilities, and strengthen its enforcement mechanisms for ensuring compliance with its legislation prohibiting such discrimination. Furthermore, there is need to adopts a policy of prevention with measures to eliminate the preventable causes of disability; and provide resources for policy implementation by relevant entities and policy monitoring by the Human Rights Commission.

**Services:** There is an urgent need to ensure that preventive measures are put in place given that in the majority of cases, disability in children is due to preventable causes, such as diseases, inaccessibility to full immunization, lack of comprehensive care (antenatal and postnatal), malnutrition and cultural practices such as early and frequent pregnancies. Programmes to eliminate abuse, violence, stigma and exclusion of children with disabilities, particularly in rural areas, and especially those children with intellectual or psychosocial impairments. Mainstream inclusive education skills training to all teachers, as well as train and assign specialized teachers and professionals in inclusive classes providing individual support and all due attention to children with learning difficulties;

**Capacity:** Improve capacity for early diagnosis of the impairment and support are difficult to obtain, in particular for children from poor families. Build capacity of teachers and the education system to effectively provide inclusive education and facilitate access. Set up comprehensive measures to implement inclusive education measures, learning from NGO piloted initiatives, and ensure that inclusive education is given priority over the placement of children in special schools and classes. Build capacity and ensure provision of appropriate infrastructure in public places so as to make it friendly and suitable for children with disabilities. Allocates sufficient resources to implement and strengthen the policies and programmes embarked upon by the State party to ensure that children with disabilities have access to health care, including early detection and intervention programmes; as well as sponsor services that are currently undertaken by NGOs such as psychosocial rehabilitation, social and vocational rehabilitation.

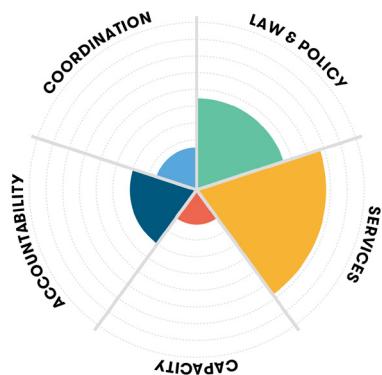
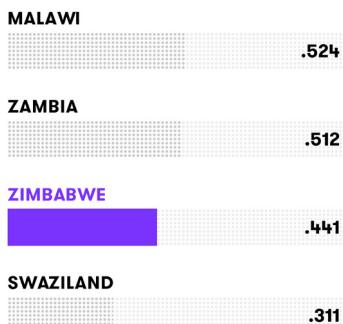
**Coordination:** Zimbabwe need to take in place several measure to strengthen coordination. These are stated below:

- i. Strengthen the collaboration mechanisms, so as to ensure that the rights of children with disability are met through the referral system.
- ii. Strengthen the policy implementation. For example, the Disabled Persons Act provide for the director of the Disabled Persons Board to implement policies with other line ministries and institutions for the coordination of programmes and policies on issues of persons with disabilities. There is, however, no regulation specifically outlining such cross-sectorial cooperation and coordination for people with disabilities and their families. The National Case Management System is a programming tool and is not necessarily binding.
- iii. Establish a mechanism for supporting residential child care facilities that support children with disability, when separation from family environment

occurs.

**Accountability:** Establish mechanisms of monitoring service provider beyond the once off licencing; Commission periodic surveys to ensure reliable data collection for effective monitoring of the status of children with disability, their needs and ability to access services through the National Case Management System and lodge such data with the ZimStats.

## Protection of Children from Economic Exploitation



The UN Convention on the Rights of the Child mandates governments to protect children from harmful and exploitative work. This includes forms of work that endangers the overall health and wellbeing of children, or hinders their right to health or education. This definition includes the worst forms of child labour which include sexual exploitation. The Convention does sanction child work, where children are able to do work that is safe and does not infringe on their rights and contributes to their development. The parameters of child work should be well defined by national laws and should specify the age, type of work and hours of work permitted.

Malawi has the highest scores of 0,524 out of a possible score of 1,0 in actions to prohibit economic exploitation. Zambia scores 0,512, followed from a distance by Zimbabwe (0,441) and Swaziland (0,311).

In terms of its actions to prevent economic exploitation of children, Zimbabwe scored overall 0.441 out of a possible score of 1. In terms of policy, Zimbabwe's score is 0.556 which is indicated by the efforts made to institute a legal and policy framework that prohibits child labour. The Government of Zimbabwe has established a legislative framework based on the precepts of the UNCRC, various International Labour Organization (ILO) conventions that clearly prohibits child labour and defines the limits of child work. Despite these efforts, the last child labour survey indicated that there has been an increase in the number of children engaged in child labour. In the Government's 2014 Child Labour Survey report, the Government indicated that children involved in child labour between the ages of 5 to 14 years of age increased from 341,000 in 2011 to 1.6 million in 2014. Approximately 96.2% of these children are found in the agriculture, forestry and fishing industry. The number of children engaged in child labour in Zimbabwe slightly higher than other countries in the CRB, with Malawi and Zambia having approximately 1.4 million and 992,722 children between the ages of 5 and 14 years old caught up in economic exploitation respectively.

Zimbabwe has set 16 years as the minimum age for children to perform hazardous work. However, a 2017 study by Human Rights Watch has indicated that children engaged in the tobacco production chain in Zimbabwe are exposed to nicotine poisoning and agro-chemicals that can cause long term health problems, including respiratory, reproductive health problems, cancer, and even depression. There have also been disturbing reports of Zimbabwean children (16 to 19 years old) being exploited by illegal mining syndicates operating in the Free State in South Africa, who are mostly undocumented migrants. It is recommended that the current legal framework stipulates the worst forms of child labour and include regulations that prohibit children from performing work that is cruel, inhumane or degrading. It is also recommended that the legal framework include clauses that prohibit the sale of children or servitude. It is also recommended that a multi-stakeholder initiative be scaled up to curb child smuggling along Zimbabwe's borders.

Zimbabwe services score of 0.783 is an indication that the country has made efforts in terms of reintegration and rehabilitation of child survivors of economic exploitation. There are programs in child labour free zones where government has collaborated with civil society to provide educational

support through bridging classes. Civil society has stepped in to provide income generating projects for households to reduce children's vulnerability to economic exploitation. Government programs such as the Basic Education Assistance Module (BEAM) and the Harmonized Social Cash Transfer Program have also been developed to increase resilience at household level and is thus one viable strategy to combat child labour. It is recommended that these government programs be scaled up to include more vulnerable children and households. It is also recommended that set financial standards for national budgeting for the rehabilitation and reintegration services of children in economic exploitation will enhance government response to these children's specific needs. The BEAM and cash transfer programs target all vulnerable key populations and are not specific to households affected by economic exploitation alone.

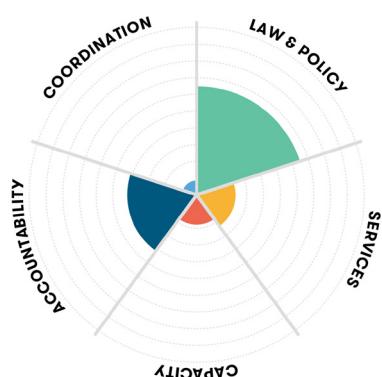
**Capacity:** Zimbabwe attained low scores and 0.217. These scores reflect that there are gaps as currently, only 70 out of the requirement of 1,000 labour inspectors are operational. Labour inspectors are the frontline of identification of child survivors of economic exploitation and prosecution of offenders. It is recommended that steps need to be taken by the Ministry of Labour and Social Welfare to increase the number of operational labour inspectors. Increased capacity would also see cases of child labour being brought to court with offenders being prosecuted as it was noted that so far, there have been no record of any cases or convictions since the last child labour survey in 2014. The fine schedule for offenders requires revision to ensure that they are more punitive to act as a deterrent to would be offenders.

Zimbabwe also scored low in terms of coordination (0.261) as evidence points out that the National Steering Committee to address the Worst Forms of Child Labour has not convened since 2008. Civil society organizations could be roped in to support the convening of meetings and play a watch-dog role in ensuring these steering committees meet at regular intervals. The score for accountability (0.408) is also low as there is no state operated child friendly reporting or complaints mechanisms. It is recommended that the state develops child friendly complaint mechanisms.

Currently, the only reporting or complaint mechanisms that are child friendly are those established and monitored by civil society organizations in child free labour zones. For instance, the Coalition against Child Labour in Zimbabwe (CACLAZ) through children's clubs in schools established child friendly reporting and quality assurance mechanisms in schools that are implementing bridging classes for children who are out of labour and are being rehabilitated into school. The state, through the Ministry of Labour and Social Welfare, could adopt these mechanisms with the support of CSOs to ensure their sustainability and improve service delivery to child victims of economic exploitation. Data on economic exploitation of children is limited as the database was last updated in 2014 in the last national survey. It is recommended that an updated, disaggregated database be prioritized to provide a comprehensive analysis of the magnitude and nature of economic exploitation of children, and to inform policy formulation and program response.

## Protection Of Children From Sexual Exploitation

ZAMBIA	.560
MALAWI	.509
SWAZILAND	.436
ZIMBABWE	.373



Article 34 of the UNCRC and Article 27 of the Children's Charter state that the child has the right to protection from all forms of sexual exploitation and sexual by taking appropriate protective measures to prevent the inducement, coercion or encouragement of a child to engage in sexual activity; use of the children in prostitution or other sexual practices and use of children in pornographic activities, performances and materials.

Zimbabwe has ratified the UNCRC and the African Charter, and has resumed participating in the Universal Periodic Reviews. Through the NAP for OVC I, II, and III, this State has increased its support to the fulfilment of rights of Children. However, in spite of all the efforts, Zimbabwe's economic situation has resulted in some families experiencing heightened vulnerability. There is an ever-increasing pull factors towards commercial sexual exploitation particularly of girls. Girls are more vulnerable to sexual exploitation (approximately 1 in three girls and 2 in 5 boys are survivors of sexually exploitation). Only less than 2.7 of women aged between 18-24 years receive services among those who experienced any forms of sexual violence in Zimbabwe when below the age of 18. (ZNCWC 2017). Education is not compulsory, or free, thus increasing children's vulnerability. Furthermore, life skills and entrepreneurial skills are needed in an economy that has limited employment absorption of its currently skilled labour force. No mechanism is in place for economic strengthening of families of children involved in commercial sexual exploitation.

Zimbabwe's rating on the Article 34 related indicators, is a score of 0,373 out of a maximum possible of 1, pointing to the fact that further action is needed to prevent sexual exploitation as well as support to survivors.

Zimbabwe has made limited progress in protecting children from sexual exploitation. Law and policy score is above average (0,658) and the rest are low namely; services (0,241), capacity (0,187) coordination (0,095) and accountability (0,424).

Zambia has the highest score at 0.560 out of a possible score of 1,0 in actions to prevent the sexual exploitation of girls and boys scores. Malawi comes second with 0.509, Swaziland following with 0.436 and lastly Zimbabwe on 0.380.

### Recommendations

**Law and Policy:** Zimbabwe needs to improve on the protective legislation and enforcement of laws prohibiting sexual exploitation of the child, especially the girl child.

The Law enforcement body, need to establish complaint mechanism of sexual abuse for children in and out of schools. The mechanism to assure justice for children needs to be strengthened, institutionalise and budgeted for, to ensure that justice is effective, speedily served with punitive sentences given to perpetrators. In the case of penetrators being bread winners, Zimbabwe needs to budget for care of the child, so as to deter case with-drawals which are often based on economic considerations. There is

an urgent need to eliminate the inefficiencies and lack of resources in the justice system resulting in the extremely low conviction rate of perpetrators of sexual exploitation and abuse of children.

**Services:** There is need for urgent attention to providing services that aim at reducing significantly the prevalence of sexual exploitation and abuse against girls, orphans, children with disabilities, child migrants, and children living in poverty. There is need to increase knowledge of support services if children become victims of sexual exploitation and abuse.

Access to efficient services that minimise the effects of child sexual exploitation by giving support to the child directly, as well as making referrals to other support agents must be improved. The latter is critical, if the child's safety is compromised. Furthermore, a mechanism need to be provide an early identification response mechanism, as well as re-integrated children who are victims of commercial sexual exploitation. The National Case Management System, need to be strengthened so that it creates within parents, children and communities heightened awareness of criminality of sexual abuse. Furthermore, children need to be aware of services available in the event of being sexually exploited. Child protection, prevention, rehabilitation and re-integration that is State sponsored but operational as part of community's responsibility must be strengthened. Such as initiative needs to an effective children participation mechanism.

**Capacity:** Zimbabwe needs to build the capacity of Social Workers and the Community to be able to contribute effectively to the fulfilment of the children's right of protection from all forms of sexual exploitation.

Recommended capacitation areas are:

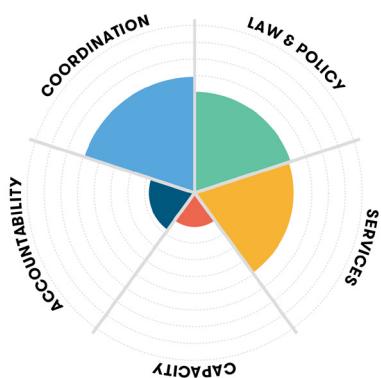
- a) Zimbabwe must put more efforts in reducing the factors which place children at risks through skills training and outreach programmes;
- b) strengthen legal frameworks for criminalising production, possession and dissemination of pornographic performance material and engaging online sex as protective measures relating to cybercrimes;
- c) Strengthen the Victim Friendly Court System so that it protects children during investigations from further abuse and victimisation from home and the community. A mechanism which empowers Child Care Workers to protect, and monitor minors safety during investigations is need so as to prevent further sexual exploitation.
- d) Establish a cyber-crime unit dedicated to protection of children from sexual exploitation.
- e) Zimbabwe needs to strengthen its statistical data collection, collation and report compilation so as to inform resource allocation for prevention of sexual exploitation, support to survivors of child sexual exploitation as well as for accountability purposes.

**Accountability:** Prevention mechanism must be strengthened, through advocacy, lobbying, social action roles to influence beliefs, culture and increase awareness and knowledge of social ills among the population. Zimbabwe needs to work on improving the current underreporting of such violations against children due to the stigma surrounding child survivors of gender-based violence or, as concerns child members of the apostolic churches, the prohibition against seeking medical attention or reporting to the authorities;

Zimbabwe must fulfill its reporting obligations under the Optional Protocol on the involvement of children in armed conflict and the Optional Protocol on the sale of children, child prostitution and child pornography, the reports of which are both overdue as of June 2015 and March 2014.

**Coordination:** Zimbabwe needs to strengthen the coordination mechanism for dealing with sexual exploitation of children.

## Protection Of Children From Abduction, Sale And Trafficking



Article 35 of the UN Convention on the Rights of the Child stipulates that countries must take comprehensive steps to protect girls and boys from abduction, sale and trafficking in persons. This includes joint efforts among countries to protect children from this form of exploitation. Similarly, the African Charter on the Rights and Welfare of the Child in Article 29 stipulates that governments should take appropriate measures to protect children from being sold or trafficked for any purpose. In this area, Zambia scores highest at 0.556 out of a possible score of 1,0 in its actions to prevent the abduction, sale or trafficking of children. Malawi scores second with 0.539 and Zimbabwe 0.428, while Swaziland scores lowest at 0.300.

Zimbabwe's overall score of 0.428 out of a possible score of 1 is an indication of improved efforts to end and prevent abduction, sale and trafficking of children. The U.S Trafficking Victims' Protection Act's minimum standards for the elimination of human trafficking classifies countries according to their government legislative and policy efforts towards preventing trafficking in persons. The U.S Department of State has duly recognized Zimbabwe's efforts and as such, the country has been upgraded to from a Tier III to a Tier II Watch List country.

In terms of prohibiting the abduction, sale and trafficking of children, Zimbabwe has made significant effort in terms of instituting legislation and coordination mechanisms to fight trafficking in persons. The policy score of 0.612 is reflective of the policy framework that has been put in place. Of great significance are the enactment of the Trafficking in Persons Act (2016) and the establishment of the Anti-Trafficking Inter-Ministerial Committee. The country also launched the National Action Plan against Trafficking in Persons (NAPLAC) in June 2017. It is recommended that additional steps need to be taken to enhance the legal framework to include legislation against bonded labour, and trafficking of persons for the sale of body parts or body tissue (living or deceased).

In comparison with other CRB countries, Zimbabwe is progressing positively. In 2017, Zambia was downgraded from a Tier I to a Tier II country, whilst Malawi and Swaziland remained at Tier II from the last reporting period in 2016. Both adult and child migrants from Zimbabwe who enter illegally into South Africa with the assistance of taxi drivers who transport them through unofficial crossing areas or through Beitbridge border post are highly susceptible to economic exploitation, forced labour or sex trafficking. As indicated in a meeting in Beitbridge, Zimbabwe, in June 2018 for the South Africa and Zimbabwe Cross Border Coordination Committee for Unaccompanied and Separated Migrant Children, which consists of Ministry of Labour and Social Welfare, Ministry of Home Affairs, civil society organizations and development partners, indicated that undocumented or unaccompanied minors are at risk of child trafficking or smuggling.

In terms of implementation, Zimbabwe's score of 0.374 indicates that the country has to go further in terms of protecting children from sale, trafficking and abduction. The state does not have adequate victim identification procedures to differentiate victims of trafficking from undocumented

migrants. It is recommended that the establishment of a distinct protocol for the identification of child victims at points of exit/entry. This is to ensure that child victims of trafficking are not criminalized. Officials from the various ministries of Home Affairs in the SADC region require capacity building on victim identification and information on how to assist undocumented or unaccompanied minors who are at risk or may be victims of child trafficking or smuggling. This can be done through collaboration with agencies such as the International Organization for Migration (IOM) who has mechanisms for victim identification. Though the Ministry of Labour and Social Welfare has a profiling mechanism for victims of trafficking, there is no specific profiling mechanism for children. It is recommended that the Ministry be assisting in developing a profiling tool that specifically addresses the needs of child victims of trafficking so that the referral system for services to child victims is clearly articulated and improve the provision of rehabilitation services.

In terms of services, Zimbabwe scored fairly at 0.600, as the country identified 5 places of safety for victims of trafficking. However, 3 of these places of safety are currently operational, and these are providing services for victims of trafficking in general (adults and children). It is recommended that these identified places of safety be fully operational and should also be upgraded to include child friendly facilities.

Zimbabwe's capacity score of 0.213 is very low, due to limited capacity to ensure that child victims of trafficking access child specific services. It is also recommended that the country establish rehabilitation and reintegration services that are specific to children. It is also recommended that the state complete its endeavours to establish centres for victims of trafficking in all the 10 provinces of the country. Zimbabwe is yet to establish places of safety/centres in the remaining 5 provinces of the country in accordance with stipulations articulated in the 2016 Trafficking in Persons Act. Zimbabwe has improved in terms of investigation; tracking and prosecution of perpetrators, with the recent successful arrests, prosecution and sentencing of traffickers involved in the high profile case where 200 women were trafficked to Kuwait.

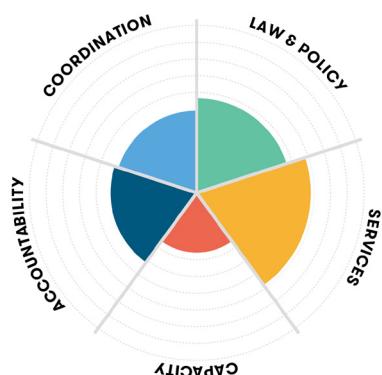
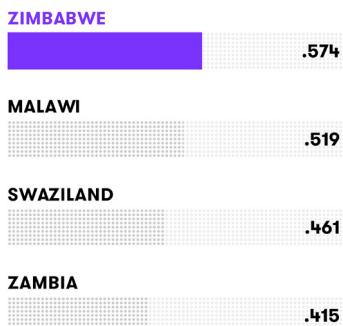
It is also recommended that the state establishes and utilizes financial standards for national budgeting for child victims of trafficking, sale and abduction. It is notable that the National Treasury did disburse US\$65,000 in 2016 for rehabilitation packages for victims of the Kuwait trafficking case. However, this was a once off disbursement and was specific to the affected women. A specific allocation for the rehabilitation of child victims will ensure prioritization and service provision.

Zimbabwe's highest score with regards coordination (0.702) is as a result of coordination efforts by the Ministry of Home Affairs, who are the secretariat of the Anti-Trafficking Inter-Ministerial Committee – to roll out provincial taskforces to decentralize the work of the Committee from national to provincial level. In terms of regional coordination however, it is recommended that there is need to follow through clauses in the regional anti-trafficking protocol that provide for formal requests by states to repatriate suspected traffickers to assist in prosecution. This can be facilitated through the regional coordination platform that has been established by UNODC (the Regional Anti-Trafficking in Persons Data Collection System). It is also recommended that the regional data collection system could also be utilized to improve Zimbabwe's statistical database and thus increase the country's

accountability mechanism.

The low accountability score of 0.283 is reflective of the fact that Zimbabwe currently does not have a database for child victims of sale, abduction and trafficking, nor does it have child friendly reporting mechanisms. It is recommended that the current efforts to develop the trafficking in persons database have specific statistical collection tools for disaggregated data on child victims, and that a child friendly reporting and complaints mechanism be instituted.

# Protection Of Children From Torture And Other Cruel, Inhuman Or Degrading Treatment



Article 37 of the UNCRC mainly addresses issues in relation to children in conflict with the Law. It refers to a number of rights such as the following:- No child shall be subjected to torture, cruel, inhuman or degrading treatment or punishment, no child should be unlawfully arrested or detained, both capital punishment and life imprisonment without the possibility of release are prohibited for offences committed by persons below 18 years, any detained child must be separated from adults unless it is considered in the child's best interests not to do so and lastly a child who is detained shall have legal and other assistance as well as contact with the family.

In addition, Article 16 of the African Charter on the Rights and Welfare of the Child (ACRWC) requires the State to ensure that a child who is detained or imprisoned or otherwise deprived of his/her liberty is not subjected to torture, inhuman or degrading treatment or punishment; ensure the separation of children from adults in their place of detention or imprisonment; ensure that every child accused of infringing the penal law is presumed innocent until duly recognized guilty; ensure the child is informed promptly in a language that he understands and in detail of the charge against him, and shall be entitled to the assistance of an interpreter if he or she cannot understand the language used; shall be afforded legal and other appropriate assistance in the preparation and presentation of his defence; shall have the matter determined as speedily as possible by an impartial tribunal and if found guilty, be entitled to an appeal by a higher tribunal and prohibit the press and the public from the trial.

Zimbabwe has the highest score of 0.574 out of a possible 1,0 on its actions to protect children from torture and all other cruel, inhuman or degrading treatment or punishment. The Child Rights Barometer compares each dimension of government action as it relates to children in conflict with the law: policy, services, capacity, coordination and accountability. Zambia's score is 0.415 while Swaziland scores 0.461 and Malawi with 0.519.

**Policy:** In terms of policy, laws and regulations, the government scored 0,575 against a maximum possible score of 1,0 indicating that the government has shown some great strides in putting in place policies, laws and regulations that are meant to protect children in conflict with the law. The gap between its law and policy (0,575) and implementation scores (0,573) is very minimal (0,00149). Surprisingly despite the existence of these seemingly good laws, the State has not yet ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its optional protocol, an indication that the Government is failing to meet the international prescribed benchmarks. It is recommended that the government considers seriously the issue of ratification of the Convention against Torture and its optional protocols if its commitment to abolishing torture within the Constitution is to be taken seriously.

There are other glaring gaps in terms of implementation in line with its obligations under the UNCRC on protection of children from torture, cruel, inhuman or degrading treatment. With regards to the right not to be subjected to torture, cruel, inhuman or degrading treatment, the challenges have been with regards to corporal punishment which has been condemned,

outlawed and defined by the High Court of Zimbabwe as "cruel, inhuman or degrading treatment or punishment". In practise corporal punishment is still being administered as a form of sentencing by the courts and rife in schools and homes where it is used as a form of discipline. The Constitutional court is yet to make a final determination of the constitutionality of corporal punishment or otherwise. The challenge we still have is that corporal punishment remains a contentious issue in the country and its total abolishment can be a challenge. However, efforts by civil society organisations, particularly the Child Rights Coalition of Zimbabwe to hold the Government to account by demanding the abolishment of corporal punishment cannot be ignored.

The other concerning factor is that usually perpetrators of corporal punishment are apprehended and punished by the courts only in extreme cases of corporal punishment resulting in death or severe harm or injury to the child. However, in "minor cases", this has been normalised and no case reported or made against the perpetrators.

In terms of deprivation of liberty, the Constitution of Zimbabwe explicitly provides that deprivation of liberty, including arrest, detention and imprisonment, should be used only as a measure of last resort and for the shortest appropriate period of time, so that the child's right to development is fully respected and ensured. The Government has shown its commitment in upholding this right, particularly with regards to children through the establishment of the pre-trial diversion programme whose objective is the diversion of juveniles from the criminal justice system. Although the programme is yet to be decentralised to cover all the provinces, since its introduction, cases of detention of children prior to arrest, following arrest, pre-trial detention of juveniles have been limited/ fewer. There is need for the Government to provide adequate financial and human resources to support the programme.

**Services:** Although Zimbabwe scored highly on services (0,691) that are meant to safeguard children in conflict with the law, there are some areas that needs special attention. In particular, government's failure to provide pro bono/free legal services to children deprived of liberty. Although access to justice/ legal representation is a legal right, children in conflict with the law bear the brunt due to the Government's failure or capacity to provide legal assistance to them. The Government's Legal AID Department is incapacitated due to limited financial and human resources to provide free legal assistance to children. Majority of children, particularly those from hard to reach communities and poor backgrounds are not represented and few NGO's provide legal assistance to children in conflict with the law. There is need for government to fully resource the Legal AID Directorate in terms of both human and financial resource) so that it delivers free legal aid in terms of its statutory mandate to vulnerable groups such as children

**Capacity:** Government action is relatively very low on capacity, with a score of 0,366, demonstrating Government's failure to provide adequate equipment of detention facilities, adequate and well qualified staffing and the subsequent training of personnel so that they adequately perform their duties and respond to the needs of detained children. This could be a sign of lack of commitment by government or a shortage of resources to meet the staff costs and other skills. There is no specific training provided to the respective staff on specific topics such as child psychology, child welfare and international standards and norms of human rights and the rights of

the child, etc. Such trainings should be provided as a rule to all staff directly interacting with children in the detention facilities to enable them to carry out their responsibilities effectively, maintain and improve their knowledge and professional capacity by attending courses of in-service training, to be organized at suitable intervals throughout their career.

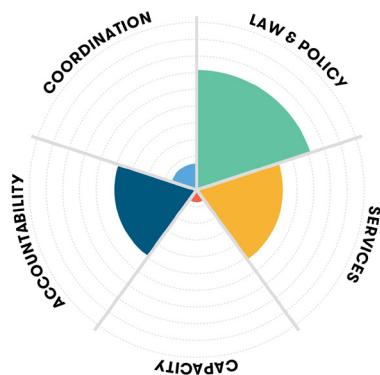
**Accountability:** the score is 0.523. The Government has put in place mechanisms/ procedures to challenge deprivation of liberty by the courts, children are hardly informed on the existence of such complaint procedures. Awareness on the existing mechanisms is essential, hence the need for government to provide children in conflict with the law with such information so that they utilise the available mechanisms. The other challenge in Zimbabwe is lack of a state centralised information that maintain a national database on all children deprived of liberty that: provides numbers of children placed disaggregated by age, gender and updated regularly. Generally accessing correct information or statistical data on children's rights is a major challenge in Zimbabwe. There is need for a centralised data base which captures information on children with respect to various issues.

**Coordination:** The government scored dismally on coordination, a score of 0,500, which shows lack of effective coordination amongst government ministries to promote and protect the rights of children.

This could be attributed to the fact that in Zimbabwe, there is no separate Ministry to deal with children's issues, resulting in a lot of politicking and backbiting. The other challenge is that the Government relies heavily on NGO's and private service providers who assist the juvenile authorities in responding to the needs of detained children and their social re integration of juveniles leaving detention. Government's over dependency on NGO's or the private sector is not sustainable, hence the call for Government to prioritise adequate budgetary allocation to cater for the upkeep of detained juveniles and their subsequent re –integration with their families.

## Child Justice

<b>MALAWI</b>	.761
<b>ZAMBIA</b>	.689
<b>SWAZILAND</b>	.630
<b>ZIMBABWE</b>	.526



Article 40 of the UNCRC requires that children in conflict with the law must enjoy their right to legal help and fair treatment in the justice system that respects their rights. In particular, article 40 urges governments to treat children charged or convicted of an offense fairly for the purposes of rehabilitating them. In this area, Malawi ranks first out of the four CRB countries, followed by Zambia with a 0.689 score, then Swaziland at 0.630. Zimbabwe's score is the lowest at 0.526.

On the indicators to ensure the above, the possible score for honouring this obligation is (1). However, Zimbabwe currently scores a total of (0.526) on the CRB that compares each government dimension on juvenile justice and administration, including: policy, services, capacity, coordination and accountability. This implies that Zimbabwe is not fully honouring its obligations to commit to the UNCRC requirements pertaining to Article 40. It is therefore pertinent for the country to improve its commitment towards ensuring the right to legal help and fair treatment of children in the justice system that takes cognisance of their rights.

Zimbabwe's highest score on the CRB for juvenile justice and administration is law and policy scoring (0.725). Accountability being relatively high, scoring (0.5) compared to other CRB scores; services (0.524), coordination (0.166) and the least/weakest of all, capacity scoring (0.083). This indicates that implementation is being jeopardised, hence, scoring below half of the possible score at (0.402). Given the above, the implication is that there is a widening yarning gap between policy and implementation, standing at (0.32) on the CRB for juvenile justice and administration. The above CRB statistics conspicuously indicates that Zimbabwe has amassed concerted efforts to law and policy, while paying scant and token appreciation to implementation.

Zimbabwe's law and policy strenuously stresses on privacy of children and fair hearing. Hearings involving children as espoused by the law are not supposed to be disclosed to the public by any means or under any circumstance. Further, the law and policy of Zimbabwe also stresses the issue of other assistance, including language interpretation among other. Apart from the above, the Zimbabwe's Children's Act emphasizes the issue of witness examination on children's behalf under conditions of equality in a hearing proceeding. Besides, the law and policy in Zimbabwe provides for the procedures of children's courts, where children's court assistant or officer presiding over children's court may cross-examine any witness giving evidence. General rights of the accused and detained/arrested are also spelt out by law and policy, especially, the issue of presumption of innocence until proven guilty by the law.

Most of the law and policy for juvenile justice and administration in Zimbabwe is rooted from splinter legislations and profoundly in the Children's Act, however, all these both fall short to enunciate the effective juvenile justice system in the country and the dictates to which it should follow regarding structures and actions for proper implementation. It is therefore vital for the government to finalise the Child Justice Bill which is yet to be brought before the august house for it to be enacted into law. Further, it is also pertinent for the government to promulgate measures that develop the

Beijing rules to fully align with international dictates and rules.

In addition, the services CRB score is relatively weak at (0,524). The major setback is that children in conflict with the law are not being fully assisted due to gaps in the law and policy. Foremost, both law and policy shy away on making legal assistance mandatory. It is therefore recommended that the Child Justice Bill underway should speak to the mandatory legal assistance for children, which is one of the major indicators to measure commitment of member states to obligations regarding article 40. Further, juveniles in Zimbabwe that are in conflict with the law are vulnerable-their privacy is presently at pale. There is therefore need to improve on protection of privacy for juveniles that are in conflict with the law from the public, press and media by involving sanctioning sections which incriminate those who flagrantly and brazenly contravenes privacy of juveniles in conflict with the law.

Apart from the above, services are being jeopardised as there is a gap on distinct laws, procedures, institutions and disposals of juveniles in conflict with the law. Notwithstanding efforts by the government to institute a pre-trial diversion pilot programme in 2013, the programme has not been developed on a full-blown scale since it was introduced as a pilot in 2013. Given such a situation, it is pertinent for the Government of Zimbabwe to fully adopt officially and roll out such a programme throughout the country by ensuring adequate provision of financing and human capital. In the like manner, the government of Zimbabwe should issue out clearly in the newly proposed Child Justice Bill, distinct procedures, laws, institutions and disposals of juveniles in conflict with the law in a bid to enhance proper implementation of the services CRB.

Besides, coordination for juvenile justice in Zimbabwe is also at stake. On the CRB, coordination scores (0,16), implying major gaps in the law and policy are inhibiting effective coordination. The major backdrop is that currently, the law is silent on the exact authorities for juveniles in conflict with the law. It is therefore recommended that the Child Justice Bill should robustly speak and clearly spell out the ideal and exact authorities, for juveniles in conflict with the law. For instance, it is difficult to effect proper coordination without the central authority to facilitate such.

In addition, capacity for juvenile justice is not commendable-it is one of the weakest on the CRB, scoring (0,083) implying there is need for greater attention in order to suffice full commitment requirements of the UNCRC for article 40. It is highly recommended for Zimbabwe to capacitate Children's courts to avoid delays in deliberating matters involving children in conflict with the law. In that regard, all personnel working directly with juveniles in conflict with the law should adequately and consistently receive specific and particular training on how they ought to handle matters involving juveniles.

Amongst the government dimension for juvenile justice and administration in Zimbabwe, accountability is comparatively high, scoring (0.5). However, for the country to fully suffice the minimum requirements for compliance with article 40-there is need to improve on information management for monitoring and evaluation purposes. This can be done by creating and maintaining an accessible, disaggregated and centralised national database of children charged and convicted with offense by age, gender, disability and type of conviction/offense. On the whole, if the above recommendations are to be

taken and adopted, the current score of (0, 5) for article 40 may increase to suit the minimum requirements for compliance with the UNCRC dictates for article 40.

In view of the foregoing, it is recommended that the government establishes and strengthens child friendly courts and procedures for child victims and witnesses. The government is also encouraged to ensure that children are heard in civil judicial proceedings that affect them, including divorce, separation, and adoption.

## Protection Of Refugees And Asylum Seekers

### MALAWI



Article 22 & 38 of the UNCRC require that State parties should provide special protection to refugee children and those affected by war and armed conflicts. The scores are set comparing each dimension of government action: policy, services, capacity, coordination and accountability. These actions set policy and promote implementation to protect children from involvement in armed conflicts and those seeking refugee statuses.

### ZIMBABWE



### SWAZILAND



### ZAMBIA



Zimbabwe scores 0.806 on Article 22 & 38 which is significantly high when compared with other articles. This is a result of very strong cooperation and coordination with UNHCR and the Red Cross. Although there is a thin line (0.016) between policy (0.817) and implementation (0.800) however, it can be submitted that Zimbabwe has a challenge in policy implementation rather than development. In submission of the same notion, coordination (1), services (0.841) and accountability scores (0.833) scores are high relative to the capacity (0.5)

Zambia scores lowest at 0.626 out of a possible 1,0 on its actions on protecting children from involvement in armed conflict. Malawi ranks first, with 0.869 out of the four CRB countries, followed by Zimbabwe which scores 0.806, then Swaziland at 0.741.

Zimbabwe's 0.817 CRB score on policy reflects the fact that the country has taken necessary steps towards adopting refugee policies with the UNCRC requirements. Although Zimbabwe has ratified almost all conventions to protect children seeking refugee statuses however, it has not yet signed the Convention on the Reduction of Statelessness (1961). It is therefore recommended that Zimbabwe should establish strong and functional legislative and institutional framework to ensure that refugee children do not become stateless.

The refugee Act (Chapter 4:03) and the Immigration Act (Chapter 4:02) provide for the cooperation of government agencies such as justice, home affairs, social services, health and education but there is no specific reference to children. As a result effective provision of services and processes that respond to the needs of the refugee and asylum seeking children is affected. Therefore, Refugee Act and Immigration Act should be realigned so that particular interests and needs of children are met.

Zimbabwe should provide concrete processes and mechanisms to safeguard children seeking refugee statuses. The Refugee Act (Chapter 4:03) is silent on the provision of the legal representative to the unaccompanied or separated child seeking refugee or asylum. Therefore, further steps should be taken towards protecting refugee children through making provisions in the Refugees Act (Chapter 4:03) for the child's right to be heard or represented during the procedures for determining his or her refugee status. Furthermore, this Act should be explicit on the provision of professional interpreters and decision makers who are experienced in child development for unaccompanied or separated children, the act generalize refugees without particular mention to special groups like children.

The convention requires that States Parties should provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or nongovernmental organizations co-operating with the United Nations to protect and assist refugee child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. Given lack of data and reporting on family reunification of unaccompanied minors in Zimbabwe, next steps should include further research to populate family reunification data that can be disaggregated and made easily accessible to the public.

The state is required to provide adequate shelter for the unaccompanied and asylum-seeking children. Zimbabwe has a serious shortage of shelter at the Tongogara Refugee Camp. A number of existing houses are dilapidated and need repairs. The provision of adequate shelter for all families should be ensured with the necessary technical support provided to ensure quality structures are built. Special provisions should be made for vulnerable groups including children to ensure their equal access to shelter.

The Civil Protection Unit (CPU) is mandated to coordinate engagement between various agencies on issues of emergencies and humanitarian situations. Accordingly, CPU adopted the National Civil Protection Plan as a Disaster Risk Reduction Plan. However, this plan does not make reference to child protection. Therefore, it is recommended that Disaster Reduction Plan should be clear on child protection issues. On the same token, CPU should consider capacitating its personnel in child protection so that special care is provided to children during emergencies and humanitarian situations. Additionally, same trainings should also be provided to the army personnel who are involved in disaster and emergency relief programs.

## Policy Recommendations

### [Coordination mechanisms]

The Government of Zimbabwe should finalize the National Child Rights Policy and to establish an appropriate body at a high inter-ministerial level with a clear mandate and sufficient authority and resources to effectively coordinate all activities related to children across sectors and at every level. Further, there is need to strengthen collaboration among the various ministries to promote and protect the rights of children i.e. Ministry of Public Service, Labor, and Social Welfare (MPSLW); Department for Child Welfare and Probation Services; and Ministry of Justice, Legal and Parliamentary Affairs; Zimbabwe Republic Police, specialized civil society organizations, and community and religious leaders

### [Harmonising laws to the new constitution]

It is commended that the 2013 national constitution clearly defines a child as a person below the age of 18 years in line with the ACRWC. The government however should expedite the process of harmonising various laws such as the Public Health Act, the Marriage Act and the Criminal Act. The government should also harmonize the definition of the child in all laws in line with Article 2 of the African Children's Charter. The Marriage Act set the minimum age of marriage for the girl child at the age of 16 years old and that the Customary Marriage Act does not provide for the minimum age of marriage at all. The government therefore is recommended to provide the minimum age of marriage to be at the age of 18 in all circumstances in accordance with articles 2 and 21 of the African Children's Charter.

### [Public investment in children]

While appreciating the efforts by the government of Zimbabwe on commitment to children's rights through ratifications of child rights and constitutionalising of rights, there is need to ensure that budgetary allocations correspond with the commitments made by the governments to children's rights. This can be done through:

- i. Increasing substantially the allocations in the areas of health, education and social services to adequate levels;
- ii. Defining budgetary lines for children in disadvantaged or vulnerable situations that may require affirmative social measures and ensure that those budgetary lines are protected even in situations of economic crisis, natural disasters or other emergencies;
- iii. Establishing a budgeting process which includes a child rights perspective and specifies clear allocations to children in the relevant sectors and agencies, including specific indicators and a tracking system;
- iv. Establishing mechanisms to monitor and evaluate the adequacy, efficacy and equitability of the distribution of resources allocated to the realisation of children's rights.
- v. Taking measures to combat corruption and strengthen institutional capacities through the allocation of human, technical and financial resources to effectively detect, investigate and prosecute corruption, bringing those responsible to justice.

### [Data collection]

The government should strengthen the ZimStats Office and put in place a comprehensive data collection and keeping system and to include disaggregated statistical data that is specific to children. The government should further invest more resources in ensuring that the data is readily available and accessible both online and other platforms. Some of the specific actions in this regard will include:

- i. Improving expeditiously data collection system which should cover all areas of children's rights and should be disaggregated by age, sex, disability, geographic location, ethnic origin and socioeconomic background in order to facilitate analysis on the situation of all children, particularly those in situations of vulnerability.
- ii. Sharing the data and indicators among the ministries concerned and used for the formulation, monitoring and evaluation of policies, programmes and projects for the effective protection of children's rights.

### [Children living with disability]

It is commended that the government came up with the National Disability Board to cater for the need of people with disability in general. Despite this effort, there are still barriers on access to health services for children with disabilities. Therefore, the government should continue its efforts to address the need of children with disability through proper implementation of its policies and by establishing orthopedic services and where services are available to ensure their accessibility and flexibility. Furthermore, the government should review existing programs essential for children with disability and to improve their coverage, effectiveness and efficiency.

### [Access to justice for children]

The government should establish and strengthen child friendly courts and procedures for child victims and witnesses; ensure that children are heard in civil judicial proceedings that affect them, including divorce, separation, and adoption; and set in place confidential reporting mechanisms for children who are victims of abuse and violence.

### [Birth Registration]

The government should circumvent all legal and administrative barriers on access to birth registration through harmonization of the Births and Deaths Registration Act and other laws in line with the Constitution. In addition, the government should conduct data collection in order to know the ration of birth registration in urban and rural areas disaggregated by age and sex. Furthermore, the government should fulfil its obligation of ensuring that every child is registered immediately after birth, is named, and acquired nationality by playing a pro-active role such as launching education and sensitization campaigns on birth registration to parents and community leaders; and ensuring proper coordination between the central civil registration authority and other civil registration offices across the country in line with the ACRWC's General Comment on Article 6 of the African Children's Charter.

### [National child rights monitoring body]

In light of general comment No. 2 (2002) on the role of independent human rights institutions, this report recommends the government to:

- i. 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;
- ii. 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;

### [Child adoption]

There is need to make friendly, the overly restrictive interpretation of the rules of adoption and reverse the negative views of adoption within the society which may have an impact on the domestic and international adoption rate. The adoption provisions are disassociated with tradition child protection safety net of traditional foster care. In view of the foregoing, the following need to be addressed:

- i. Commissioning and sponsoring of adoption services by non state actors given the limited capacity with the Social Services Department.
- ii. Ensure that children are not deprived of the chance to be adopted through an overly restrictive interpretation of the rules of adoption.
- iii. Ensure that adoption proceedings are resolved with undue delays, by legally stipulating deadlines.
- iv. Conduct awareness-raising of the process of adoption to counter the prevailing negative views;
- v. Ratify the 1993 Hague Convention No. 33 on the Protection of Children and Cooperation in Respect of Inter-country Adoption;
- vi. Simplify the requirements, procedure/processes for registering a child in need of adoption with the High Court so that the services can easily accessed by vulnerable families, child headed families, teen mothers, guardians of children with disability and OVCs.

**[Sexual exploitation of children]**

The government should take all necessary measures to ensure that all children vulnerable to and at risk of any form of sexual exploitation and abuse are provided with the necessary assistance and protection. Some specific actions to implement this proposition include:

- i. Developing and implementing a National Plan of Action (NPA) which includes specific reference to sexual exploitation of children, addressing all manifestations and allocating sufficient resources for its implementation with clear co-ordination and monitoring to ensure effectiveness and impact.
- ii. Providing adequate resources for the full implementation of the Trafficking in Persons (TiP) National Plan of Action (NAPLAC) that was launched in 2016 to fight human trafficking and to protect its citizens, especially children and women who are most at risk of trafficking. Tools for the identification of victims of trafficking, which is the baseline for measuring an effective response should be prioritised.
- iii. Ensuring that victims of sexual exploitation and abuse have access to child-protection centres throughout the country, and that they are staffed with professionals trained in child protection and handling of child victims of abuse;
- iv. Establishing accessible, confidential, child-friendly mechanisms, procedures and guidelines to ensure the effective and mandatory reporting of cases of child sexual abuse and exploitation, and to this end continue to work with community police and gender and children's desks in a joint effort;
- v. Conducting awareness-raising programmes particularly for children, parents and caregivers, to combat the stigmatization of victims of sexual exploitation and abuse, including incest, and promote knowledge of reporting channels for such violations;

**[Alternative care]**

The government should strengthen the financial support and community structures to grandparent- and child-headed households to assist in meeting needs related to nutrition, shelter and access to essential services, with particular attention to meeting the demands of families in rural areas and farming communities. It should also ensure that mothers and fathers equally share the legal responsibility for their children, in accordance with article 18, paragraph 1, of the Convention.

## End Notes

- 1 [https://www.unicef.org/about/annualreport/files/Zimbabwe\\_Annual\\_Report\\_2014.pdf](https://www.unicef.org/about/annualreport/files/Zimbabwe_Annual_Report_2014.pdf) accessed 19 August 2016.
- 2 [https://www.unicef.org/about/annualreport/files/Zimbabwe\\_Annual\\_Report\\_2014.pdf](https://www.unicef.org/about/annualreport/files/Zimbabwe_Annual_Report_2014.pdf) accessed September 2016.
- 3 Interview a probation officer, 22/01/2018
- 4 Constitution of Zimbabwe Amendment (No.20) Act of 2013
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