



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

### Concluding observations on the combined second and third reports of Botswana\*

#### I. Introduction

1. The Committee considered the combined second and third periodic reports of Botswana (CRC/C/BWA/2-3) at its 2388th and 2389th meetings (see CRC/C/SR.2388 and 2389), held on 23 and 24 May 2019, and adopted the present concluding observations at its 2400th meeting, held on 31 May 2019.

2. The Committee welcomes the submission of the combined second and third periodic reports of the State party, despite the fact that it was submitted with considerable delay, and the written replies to the list of issues (CRC/C/BWA/Q/2-3/Add.1), which allowed for a better understanding of the situation of children's rights in the State party. The Committee expresses appreciation for the constructive dialogue held with the high-level and multisectoral delegation of the State party.

#### II. Follow-up measures taken and progress achieved by the State party

3. The Committee welcomes the ratification of the Optional Protocol on the involvement of children in armed conflict and the adoption of legislative, institutional and policy measures to implement the Convention, including the Children's Act, the amended Penal Code, the Domestic Violence Act, the amended National Registration Act, the National Plan of Action for Children 2006–2016, the Child Protection Regulations and the National Plan of Action for Orphans and Vulnerable Children 2006–2016. It also welcomes the progress achieved in improving vaccination coverage and in reducing rates of under-5 mortality and mother-to-child transmission of HIV.

#### III. Main areas of concern and recommendations

4. The Committee recommends that the State party ensure the realization of children's rights in accordance with the Convention, 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 throughout the process of implementing the 2030 Agenda for Sustainable Development. It also urges the State party to ensure the meaningful participation of children in the design and implementation of policies and programmes aimed at achieving all 17 Sustainable Development Goals as far as they concern children.

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\* Adopted by the Committee at its eighty-first session (13–31 May 2019).



## **A. General measures of implementation (arts. 4, 42 and 44 (6))**

### **Reservations**

5. **In view of the information provided by the State party that there is “no legal impediment” to lifting its reservation to article 1 of the Convention (CRC/C/BWA/2-3, para. 20), the Committee recalls its previous recommendations (CRC/C/15/Add.242, para. 9) and urges the State party to expedite the withdrawal of its reservation to article 1.**

### **Legislation**

6. The Committee welcomes the adoption of the Children’s Act in 2009 and amendments to the Penal Code in 2018 to align it with the Convention but remains concerned that several laws relevant to children, including the Adoption of Children Act, the Marriage Act, the Affiliations Proceedings Act, the Deserted Wives and Child Protection Act and the Wills Act, are not in line with the Convention.

7. **The Committee recommends that the State party:**

(a) **Fully harmonize its legislation with the principles and provisions of the Convention, in close consultation with children and civil society organizations;**

(b) **Conduct child rights impact assessments of all new legislation adopted at the national level.**

### **Comprehensive policy and strategy**

8. The Committee welcomes the National Plan of Action for Children 2006–2016 and the National Plan of Action for Orphans and Vulnerable Children 2010–2016 but is concerned about the ineffective implementation and evaluation of the plans, in part due to a lack of sufficient resources.

9. **The Committee recommends that the State party conduct an evaluation of its national plans of action regarding children, with a view to adopting a new national plan of action that is sufficiently resourced, encompasses all areas covered by the Convention and includes specific time-bound and measurable goals and targets to effectively monitor and evaluate progress in the implementation of children’s rights.**

### **Coordination**

10. **Noting with concern that the National Children’s Council and the village child protection committees are not fully operational, primarily due to a lack of resources, the Committee recommends that the State party strengthen its coordination efforts to implement the Convention, including by ensuring that the Council has the sufficient authority to coordinate all activities related to the implementation of the Convention at the cross-sectoral, national, regional and local levels and that the Council and the village child protection committees are provided with the necessary human, technical and financial resources for their effective operation.**

### **Allocation of resources**

11. The Committee commends the State party for the substantial resources allocated to the social sector, including child and family benefits, but is concerned that budget allocations do not match the needs. It also regrets the insufficient resources allocated to health and primary education, and the lack of a tracking system for the allocation and use of resources to implement children’s rights. Furthermore, while the Committee notes the efforts of the State party to combat corruption, it is concerned about incidences of corruption and illicit financial flows that divert resources necessary for the implementation of children’s rights.

12. **Recalling its general comment No. 19 (2016) on public budgeting for the realization of children’s rights, the Committee recommends that the State party:**

(a) Allocate adequate human, financial and technical resources for the implementation of all policies, plans, programmes and legislative measures directed at children;

(b) Introduce a child rights perspective into the budgeting process that specifies clear allocations for children in the relevant sectors and agencies, and includes specific indicators and a tracking system to monitor and evaluate the adequacy, efficacy and equitability of the distribution of resources allocated for implementation of the Convention;

(c) Strengthen long-standing measures to combat corruption in government procurement and illicit financial flows and strengthen existing institutional capacities to effectively detect, investigate and prosecute related cases.

#### Data collection

13. Recalling its previous recommendations (CRC/C/15/Add.242, para. 22), the Committee recommends that the State party:

(a) Expeditiously establish the social registry and ensure that it functions as a comprehensive data-collection system that covers all areas of the Convention, with data disaggregated by age, sex, disability, nationality, geographic location and socioeconomic background in order to facilitate analysis on the situation of all children;

(b) Ensure the effective coordination and harmonization of data collection by the ministries concerned, civil society organizations and development partners to avoid duplication and discrepancies in data, including by widely sharing the data and indicators available;

(c) Ensure that data is used for the formulation, monitoring and evaluation of policies, programmes and projects for the effective implementation of the Convention;

(d) Strengthen its technical cooperation with, among others, the United Nations Children's Fund (UNICEF) and take into account the report of the Office of the United Nations High Commissioner for Human Rights (OHCHR) entitled *Human Rights Indicators: A Guide to Measurement and Implementation* when defining, collecting and disseminating statistical information.

#### Independent monitoring

14. The Committee recommends that the State party:

(a) Expeditiously amend the Ombudsman Act to create an independent national human rights institution in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), and ensure that the institution has a clear mandate to effectively monitor children's rights and to receive, investigate and address complaints by children in a child-sensitive manner;

(b) Seek technical assistance in establishing the institution from, among others, OHCHR, UNICEF and the United Nations Development Programme (UNDP).

#### Dissemination, awareness-raising and training

15. The Committee welcomes the measures taken to raise awareness of the Convention, including among law enforcement officials, parliamentarians and community leaders, but is concerned that the Convention and the Children's Act are not sufficiently known by the public at large and children in particular.

16. Recalling its previous recommendations (CRC/C/15/Add.242, para. 24), the Committee recommends that the State party:

(a) **Strengthen its efforts to increase nationwide awareness of the Convention and the Children's Act, in close cooperation with civil society organizations, paying particular attention to remote and rural areas;**

(b) **Provide adequate and systematic training to professional groups working with and for children, such as parliamentarians, law enforcement officials, teachers, lawyers, health professionals and community leaders;**

(c) **Translate the Children's Act into Setswana and make it available in accessible and child-friendly versions.**

#### **Cooperation with civil society**

17. The Committee notes that the State party cooperates with civil society through formal agreements. It is concerned, however, that civil society is not sufficiently consulted in aspects of children's rights beyond those that involve service delivery.

18. **The Committee recommends that the State party:**

(a) **Strengthen cooperation with civil society organizations working in the field of children's rights, provide them with the necessary protection and systematically involve them in the development, implementation, monitoring and evaluation of laws, policies and programmes related to children;**

(b) **Provide civil society organizations with the support necessary to implement their activities in all areas relating to the promotion and protection of the rights of the child while respecting their freedom of association and assembly;**

(c) **Formalize the engagement of civil society organizations in the thematic working groups of Vision 2036.**

### **B. Definition of the child (art. 1)**

19. While welcoming the definition of the child under the Children's Act and current efforts to amend the Marriage Act, the Committee is concerned that the prohibition of child marriage in the Marriage Act does not apply to customary and religious marriages.

20. **Recalling its previous recommendations (CRC/C/15/Add.242, paras. 11 and 26), the Committee recommends that the State party expeditiously amend the Marriage Act to prohibit all marriage, including customary and religious marriage, for persons under the age of 18 years.**

### **C. General principles (arts. 2, 3, 6 and 12)**

#### **Non-discrimination**

21. The Committee notes the prohibition of discrimination in the Children's Act but is concerned that some groups of children suffer from discriminatory attitudes and disparities in accessing basic services.

22. **The Committee recommends that the State party:**

(a) **Strengthen its efforts to eradicate all discriminatory policies and practices by, inter alia, ensuring access to social services for children living in remote areas and children of foreign nationality, providing anti-discrimination training to law enforcement officials and integrating the principle of non-discrimination into the school curriculum, with a view to ensuring that children enjoy all the rights set out in article 2 of the Convention;**

(b) **Conduct comprehensive public education and awareness-raising programmes, including campaigns, to combat and prevent discrimination against children with disabilities, children in street situations, children born to unmarried parents, orphans and children in foster care, children affected by HIV/AIDS and children of foreign nationality.**

### **Best interests of the child**

23. The Committee welcomes the explicit recognition in the Children's Act of the right of the child to have his or her interests taken as a primary consideration, and the positive application of the right in High Court judgments. Nonetheless, it remains concerned that this right is not fully implemented in decisions affecting children, particularly in the lower courts and by professionals who work with and for children.

24. **Recalling its general comment No. 14 (2013) on the right of the child to have his or her best interests taken as a primary consideration, the Committee recommends that the State party:**

(a) **Strengthen its efforts to ensure that this right is appropriately integrated, and consistently interpreted and applied, in all legislative, administrative and judicial proceedings and decisions, as well as in all policies, programmes and projects that are relevant to and have an impact on children;**

(b) **Develop procedures and criteria to provide guidance to all relevant persons in authority for determining the best interests of the child in every area and for giving it due weight as a primary consideration, and ensure that they receive relevant training.**

### **Right to life, survival and development**

25. The Committee notes with appreciation the Integrated Reproductive Maternal, Neonatal, Child, Adolescent and Nutrition Strategy 2018–2022 and Early Childhood Development Policy Framework, as well as significant progress in reducing the under-5 mortality rate. However, the Committee is seriously concerned about the persistently high rates of under-5 mortality and about high rates of neonatal and child mortality due to preventable diseases, including malnutrition and HIV/AIDS.

26. **The Committee urges the State party to:**

(a) **Allocate sufficient resources to the integrated reproductive maternal, neonatal, child, adolescent and nutrition strategy, with a view to accelerating progress in addressing the issues of poverty, social security and health and ensuring the full exercise by children of the right to life, survival and development;**

(b) **Strengthen measures to eliminate preventable infant and under-5 mortality by, inter alia, improving prenatal care, providing training to health service personnel on the prevention and clinical management of the leading causes of newborn and child deaths and applying the OHCHR technical guidance on the application of a human rights-based approach to the implementation of policies and programmes to reduce and eliminate preventable mortality and morbidity of children under 5 years of age (A/HRC/27/31);**

(c) **Establish a mechanism for the effective implementation, monitoring and evaluation of the Early Childhood Development Policy Framework.**

### **Respect for the views of the child**

27. While welcoming the establishment of the Children's Consultative Forum and village child protection committees to facilitate child participation at the national and village levels, as well as school councils in secondary schools, the Committee is concerned that such mechanisms do not facilitate meaningful and empowered participation of children in matters that concern them. It is also concerned about the lack of procedures or protocols to ensure respect for the views of the child in administrative and judicial proceedings.

28. **Recalling its general comment No. 12 (2009) on the right of the child to be heard and its previous recommendations (CRC/C/15/Add.242, para. 33), the Committee recommends that the State party:**

(a) **Ensure that children's views are given due consideration in courts, schools, relevant administrative and other processes concerning children and in the family through, inter alia, the training of professionals working with and for children**

and the development of operational procedures or protocols to ensure respect for the views of children in administrative and judicial proceedings;

(b) Allocate sufficient technical, human and financial resources to the effective functioning of the Children's Consultative Forum and village child protection committees and ensure that their outcomes are systematically fed into public decision-making;

(c) Conduct awareness-raising activities to promote the meaningful and empowered participation of all children in the family, the community and schools, including within school councils, paying particular attention to girls, children with disabilities and children affected by HIV/AIDS.

#### **D. Civil rights and freedoms (arts. 7, 8 and 13–17)**

##### **Birth registration and nationality**

29. The Committee welcomes the measures taken to promote birth registration, including through the amended National Registration Act, but remains concerned about the significant number of children who are not registered, particularly children in remote areas, refugee and asylum-seeking children and abandoned children. It is also concerned about the persistence of barriers to birth registration and the lack of safeguards to prevent refugee and asylum-seeking children from statelessness.

30. **Taking note of target 16.9 of the Sustainable Development Goals, the Committee urges the State party to:**

(a) **Strengthen efforts to achieve universal registration by, inter alia, addressing administrative obstacles, expanding health facility-based birth registration centres and mobile registration campaigns and raising awareness of the importance of birth registration, paying special attention to refugees and children living in alternative care institutions, nomadic communities and remote areas;**

(b) **Consider withdrawing its reservation to the Convention relating to the Status of Refugees and ratifying the Convention on the Reduction of Statelessness, and bringing its national legislation into line with those international instruments, including by establishing safeguards to prevent children from being stateless;**

(c) **Seek technical assistance on measures to ensure registration and prevent statelessness of children from, among others, the Office of the United Nations High Commissioner for Refugees (UNHCR) and UNICEF.**

##### **Freedom of expression**

31. While noting that the Children's Act guarantees freedom of expression, the Committee is concerned that prevailing traditional cultural and societal attitudes make it difficult for children to freely express their views on public matters.

32. **The Committee recommends that the State party take measures to guarantee the rights to freedom of expression for children of all ages within the family, in school and other institutions, and in their communities, in accordance with the Convention.**

##### **Right to privacy**

33. While noting that the right to privacy is guaranteed under the Children's Act and the Cybercrime and Other Related Offences Act, the Committee is concerned that cultural attitudes and practices do not recognise children's right to privacy, and that the increased access of children to online media has not been accompanied by appropriate awareness-raising activities on online safety.

34. **The Committee recommends that the State party take all measures necessary to protect the right of the child to privacy, including by developing regulations to protect the privacy of children, adequately training children, teachers and families on media literacy and online safety and conducting awareness-raising and educational**

programmes, in cooperation with the media, to eliminate practices that violate children's right to privacy.

## **E. Violence against children (arts. 19, 24 (3), 28 (2), 34, 37 (a) and 39)**

### **Corporal punishment**

35. Recalling its previous recommendations (CRC/C/15/Add.242, para. 37), the Committee expresses serious concern that corporal punishment remains lawful in all settings, including as a sentence for a crime, and urges the State party to:

(a) Explicitly and unconditionally prohibit, through legislative and administrative measures, the use of corporal punishment in all settings, including in the home, schools, childcare institutions, alternative care settings and in the administration of justice;

(b) Repeal clauses related to "unreasonable correction" in the Children's Act and to "the conditions for the administration of corporal punishment" in the Education Act;

(c) Raise awareness of parents, teachers, professionals working with children and the public in general to the harm caused by corporal punishment and promote positive, non-violent and participatory forms of child-rearing and discipline.

### **Sexual exploitation and abuse**

36. The Committee notes that a sexual offences bill is pending approval by parliament but is deeply concerned about:

(a) The high incidence of sexual exploitation and abuse of children, in particular in school and in the family;

(b) The low rate of reporting and delays in prosecuting perpetrators of sexual exploitation and abuse of children, owing to a lack of trust in the authorities and the reluctance of families and the general public to report such cases due to stigma and feelings of shame associated with such abuse;

(c) The limited support provided to child victims;

(d) The limited capacity of professionals working with and for children to handle cases of sexual violence against children.

37. Recalling its general comment No. 13 (2011) on the right of the child to freedom from all forms of violence and taking note of targets 5.2 and 16.2 of the Sustainable Development Goals, the Committee recommends that the State party:

(a) Establish effective mechanisms, procedures and guidelines for mandatory reporting of cases of sexual exploitation and abuse in the home, in school, in institutions and in other settings, including online, and ensure accessible, confidential, child-friendly and effective reporting channels for such violations;

(b) Expeditiously adopt the sexual offences bill and take all measures necessary to investigate reported cases of sexual violence and to prosecute and punish perpetrators with sentences commensurate with the gravity of the crime;

(c) Provide child victims with child-friendly and multisectoral remedies and comprehensive support, including psychological, recovery and social reintegration assistance, and take measures to prevent the revictimization of child victims;

(d) Ensure that all professionals and staff working with and for children, including law enforcement authorities, judges, prosecutors, social workers and civil servants, receive training on how to receive, monitor, investigate and prosecute complaints in a child- and gender-sensitive manner;

(e) Conduct awareness-raising programmes, in close cooperation with civil society and UNICEF, aimed at preventing the sexual exploitation and abuse of

children and combating the stigmatization of victims, targeting parents, children and community leaders;

(f) **Publish the findings of the Violence against Children Survey of 2017 conducted by the Ministry of Local Government and Rural Development.**

#### **Harmful practices**

38. **Recalling the joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2014) on harmful practices, the Committee recommends that the State party take all measures necessary to eliminate child marriages, in line with the State party's obligations under the Convention and the African Charter on the Rights and Welfare of the Child.**

#### **Helplines**

39. The Committee welcomes the establishment of a toll-free, 24-hour helpline and radio call-in programme for children but regrets the lack of information about the procedures for following up on complaints, the accessibility of the helpline and call-in programme for children, the number of complaints received and their outcome.

40. **The Committee recommends that the State party:**

(a) **Ensure that the helpline is available to all children at the national level, including by providing the necessary human, financial and technical resources for its effective functioning, and promote awareness of how children can access the helpline;**

(b) **Ensure capacity-building of helpline personnel on the provision of child-sensitive and child-friendly assistance and the procedures for following up on complaints;**

(c) **Collect regular and systematic data on the number and types of complaints received and the support provided to victims.**

## **F. Family environment and alternative care (arts. 5, 9–11, 18 (1) and (2), 20, 21, 25 and 27 (4))**

#### **Children deprived of a family environment**

41. The Committee welcomes the adoption of the National Plan of Action for Orphans and Vulnerable Children 2006–2016 and the Children in Need of Care Regulations, and the recent evaluation of the pilot foster care programme. It is concerned, however, about:

(a) The number of children deprived of a family environment, reports of children remaining in care for lengthy periods and the fact that many children are placed in institutions rather than family- or community-based care;

(b) The lack of support for families caring for children deprived of their family environment;

(c) The State party's overreliance on non-governmental organizations to provide childcare services and facilities and related training.

42. **Recalling the Guidelines for the Alternative Care of Children, the Committee recommends that the State party:**

(a) **Ensure sufficient alternative family- and community-based care options for children deprived of their family environment, including by allocating sufficient financial resources for the foster care programme, increasing the number of social workers and regularly reviewing placement measures;**

(b) **Progressively reduce reliance on residential care and, in the interim, provide sufficient financial and other support to alternative residential care centres**



for children run by non-governmental organizations and ensure the registration, certification, monitoring and quality assurance of the centres;

(c) Provide continuous capacity-building and training for social workers, staff working in alternative care institutions, foster families and caregivers on the Children in Need of Care Regulations, children's rights and the particular needs of children deprived of a family environment.

**G. Disability, basic health and welfare (arts. 6, 18 (3), 23, 24, 26, 27 (1)–(3) and 33)**

**Children with disabilities**

43. The Committee welcomes the establishment of the Disability Public Education Office to combat the stigmatization of and discrimination against children with disabilities and the steps taken by the State party towards adopting a human rights-based approach to disability. It also notes that a draft national disability framework is pending approval by parliament. It is concerned, however, about the lack of information regarding the situation of children with disabilities and the insufficient progress in ensuring their access to inclusive education.

44. **Recalling its general comment No. 9 (2006) on the rights of children with disabilities, the Committee urges the State party to adopt a human rights-based approach to disability, set up a comprehensive strategy for the inclusion of children with disabilities and:**

(a) **Adopt, as a matter of priority, the draft national disability framework and allocate sufficient human, technical and financial resources for its implementation;**

(b) **Undertake a study on the situation of children with disabilities, including those not currently accessing services or support, and use its findings to inform the implementation of the Convention and existing laws and policies;**

(c) **Guarantee all children with disabilities, including those with intellectual and psychosocial disabilities, the right to inclusive education in mainstream schools, with adequately trained specialized teachers and professionals to provide individual support and all due attention to them;**

(d) **Prevent the separation of children with disabilities from their families by providing support and services to enable families to care for their children, including through cash grants;**

(e) **Continue strengthening its awareness-raising campaigns to combat the stigmatization of and prejudice against children with disabilities, especially children with psychosocial and intellectual disabilities, and promote a positive image of such children.**

**Health and health services**

45. The Committee welcomes the Botswana Expanded Programme on Immunization and the public health regulations aimed at improving access of children to basic health services and vaccinations. However, it is concerned about:

(a) The limited access to health care for children living in remote areas and children without identity documents;

(b) The prevalence of malnutrition and stunting, as well as rising levels of obesity, among children;

(c) Insufficient availability of child-friendly health-care services;

(d) The lack of information on breastfeeding and the implementation of the Baby-friendly Hospital Initiative.

46. Recalling its general comment No. 15 (2013) on the right of the child to the enjoyment of the highest attainable standard of health and taking note of target 3.2 of the Sustainable Development Goals, the Committee recommends that the State party:

(a) Prioritize measures to improve access to quality health-care and nutrition services, including by allocating sufficient financial resources, ensuring the availability of qualified health staff, particularly in remote areas, and waiving fees for children of foreign nationality who cannot afford basic health services;

(b) Continue targeted interventions to prevent the stunting and undernourishment of children and to combat obesity, including the promotion of proper infant and young child feeding practices, the provision of nutritional supplements and activities to raise public awareness of nutrition issues and healthy eating habits;

(c) Invest in measures to ensure that health-care services are child-friendly, including through the training of health-care personnel to address the specific needs of children and adolescents;

(d) Systematically collect data on breastfeeding, effectively monitor the implementation of the International Code of Marketing of Breast-milk Substitutes and the Baby-friendly Hospital Initiative and develop a national programme to raise awareness of the importance of breastfeeding among families and the general public.

#### Adolescent health

47. While welcoming the various awareness-raising campaigns and platforms on adolescent health issues, the Committee recalls its previous recommendations (CRC/C/15/Add.242, para. 53) and recommends that the State party:

(a) Provide free, confidential and adolescent-responsive sexual and reproductive health services, information and education, paying special attention to preventing early pregnancy and sexually transmitted infections;

(b) Ensure that sexual and reproductive health education is part of the mandatory school curriculum and is directed at adolescent girls and boys;

(c) Establish a mental health programme dedicated to children that includes community-based mental health services and preventive work in schools, homes and care centres;

(d) Provide life-skills education on preventing substance abuse, including tobacco and alcohol, and develop accessible, youth-friendly and non-punitive drug dependence treatment and harm reduction services.

#### HIV/AIDS

48. While welcoming the measures taken to address the prevalence of HIV/AIDS, including through the national antiretroviral programme, the prevention of mother-to-child transmission programme and the early infant diagnosis programme, the Committee is concerned at:

(a) The persistently high prevalence of HIV/AIDS and tuberculosis;

(b) Limited access of children, in particular children of foreign nationality, to antiretroviral treatment;

(c) Limited access of children to basic HIV services, antiretroviral treatment and sexual and reproductive health services and education, including access to condoms.

49. Recalling its general comment No. 3 (2003) on HIV/AIDS and the rights of the child and taking note of target 3.3 of the Sustainable Development Goals, the Committee recommends that the State party:

(a) Adopt a new national plan for HIV/AIDS that is informed by an evaluation of the National Strategic Framework for HIV/AIDS 2010–2016;

(b) **Review and harmonize laws and policies on HIV/AIDS with those of sexual and reproductive health for adolescents, with a view to ensuring that adolescents have access to confidential HIV testing and counselling services without the need for parental consent, and that professionals providing such services fully respect the rights of adolescents to privacy and non-discrimination;**

(c) **Strengthen the measures in place to prevent mother-to-child transmission of HIV by ensuring the implementation of effective preventive measures in remote areas and improving follow-up treatment for mothers infected with HIV and their infants;**

(d) **Improve coverage of antiretroviral treatment for children, including children of foreign nationality and pregnant women infected with HIV;**

(e) **Improve access to quality, age-appropriate HIV/AIDS, sexual and reproductive education, including on the use of condoms;**

(f) **Strengthen measures to prevent and treat tuberculosis.**

#### **Standard of living**

50. While welcoming the efforts to address poverty and reduce inequalities, including through social protection programmes, the piloting of social assistance measures, the National Policy on Destitute Persons and Vision 2016, the Committee is deeply concerned about the persistent prevalence of poverty among children and reports that children living in poverty do not have sufficient access to social assistance programmes.

51. **Taking note of target 1.2 of the Sustainable Development Goals, the Committee recommends that the State party:**

(a) **Collect comprehensive and disaggregated data on child poverty and actively use such data in policymaking and in monitoring the implementation of policies and programmes relevant to poverty reduction;**

(b) **Urgently evaluate its social protection programmes, including the vulnerable group feeding programme, to identify gaps in coverage and revise the criteria for eligibility, with a view to ensuring that they benefit children living in poverty, and consider the extension of current measures for social assistance;**

(c) **Take all measures necessary to improve access to, and ensure the sustainability, availability, sufficiency and affordability of, adequate housing, safe drinking water and adequate sanitation facilities for all children, in particular children living in remote areas, children affected by HIV/AIDS and children with disabilities;**

(d) **Seek technical assistance from UNICEF in improving the standard of living for children.**

## **H. Education, leisure and cultural activities (arts. 28–31)**

#### **Education, including vocational training and guidance**

52. The Committee welcomes the efforts made by the State party to improve children's access to quality education, including through the Education and Training Sector Strategic Plan 2015–2020, the Inclusive Education Policy and the out-of-school education for children programme. It also notes that primary education is free and compulsory under the Children's Act. The Committee remains concerned, however, that primary education is not free for children of foreign nationality and dropout rates remain high, particularly among girls due to pregnancy. It is also concerned about low completion rates, the large number of children who are out of school and the introduction of fees for secondary school in 2006.

53. **Taking note of targets 4.1, 4.4, 4.5 and 4.7 of the Sustainable Development Goals, the Committee recommends that the State party:**

(a) **Guarantee the right to free quality education for all girls and boys, including of foreign nationality, and effectively reduce regional disparities in access to education;**

(b) **Enhance efforts to improve the quality of education at all levels, including by reducing the pupil-teacher ratio, providing continuous training to teachers, improving school equipment and infrastructure, conducting a midterm review of the Education and Training Sector Strategic Plan 2015–2020 and reviewing the curriculum to make education relevant to children’s social, cultural, environmental and economic context and to equip all children with essential life skills;**

(c) **Strengthen efforts to keep pregnant girls in mainstream schools and reintegrate pregnant girls and adolescent mothers into the mainstream school system by providing counselling in parenting skills and childcare facilities;**

(d) **Develop and promote quality vocational training to enhance the skills of children, especially those who drop out of school, with a particular emphasis on those living in remote areas.**

#### **Early childhood development**

54. The Committee notes the review of the Early Childhood Care and Education Policy in 2015 and the development of an early childhood curriculum and teacher training programme. It is concerned, however, that early childhood education is not adequately resourced and has not been systematically implemented throughout the State party.

55. **Taking note of target 4.2 of the Sustainable Development Goals, the Committee recommends that the State party allocate sufficient financial resources for the development and expansion of early childhood education, based on a comprehensive and holistic policy of early childhood care and development, with a view to ensuring access for all children to early childhood education, and that the State party seek technical assistance from UNICEF in that regard.**

#### **Human rights education**

56. While welcoming the incorporation of human rights education in schools, the Committee is concerned about the insufficient incorporation of human rights in the training of teachers and other education professionals and staff.

57. **Taking note of target 4.7 of the Sustainable Development Goals, the Committee recommends that the State party:**

(a) **Develop a national plan of action for human rights education, including on the rights of the child, as recommended in the framework of the World Programme for Human Rights Education;**

(b) **Ensure that human rights education and the principles of the Convention are an integral and mandatory component of all training for teachers, education professionals and staff at all levels.**

#### **Rest, leisure, recreation and cultural and artistic activities**

58. The Committee notes the various sports programmes for children, but is concerned about the lack of information provided by the State party on recreation and cultural and artistic activities.

59. **Recalling its general comment No. 17 (2013) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts, the Committee recommends that the State party strengthen its efforts to guarantee the right of the child to rest and leisure and to engage in age-appropriate recreational activities, cultural life and the arts, based on the principles of inclusion, participation and non-discrimination.**

## **I. Special protection measures (arts. 22, 30, 32, 33, 35, 36, 37 (b)–(d) and 38–40)**

### **Migrant, asylum-seeking and refugee children**

60. The Committee welcomes the relocation of refugee children from Francistown Centre for Illegal Immigrants and that refugee children have access to education and free health services. Nonetheless, the Committee is seriously concerned that asylum-seeking and refugee children and families, as well as unaccompanied children, will continue to be subjected to mandatory and prolonged detention.

61. **Recalling joint general comments No. 3 and No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families/No. 22 and No. 23 (2017) of the Committee on the Rights of the Child on the human rights of children in the context of international migration, the Committee urges the State party to:**

(a) **Prohibit the detention of refugee and asylum-seeking children and adopt alternatives to detention in order to allow children to remain with family members and/or guardians in non-custodial, community-based contexts, consistent with their best interests and their rights to liberty and a family environment;**

(b) **Strengthen measures to ensure full access of all asylum-seeking and refugee children to health services and education.**

### **Economic exploitation, including child labour**

62. **While noting the prohibition of child labour under the Children's Act and the 2005/06 study on child labour, the Committee recommends that the State party allocate sufficient human, technical and financial resources to labour inspection in order to fully, regularly and effectively implement the laws and policies on child labour, particularly in the agricultural sector, and prosecute any perpetrators of violations relating to child labour.**

### **Children in street situations**

63. While noting the plans of the State party to conduct a study on the situation of children in street situations, the Committee is concerned about the increase in the number of children in street situations and the absence of specific policies or specialized personnel for such children.

64. **Recalling its general comment No. 21 (2017) on children in street situations, the Committee recommends that the State party:**

(a) **Develop a national policy and plan of action to support children in street situations, based on the outcome of the study and the data collected;**

(b) **Strengthen its measures to ensure that children in street situations are provided with educational opportunities and family reintegration services;**

(c) **Provide professional support, in particular personnel with specialized skills in psychology and social work, to organizations working with children in street situations.**

### **Sale and trafficking**

65. **Taking note of target 8.7 of the Sustainable Development Goals, and welcoming the adoption of the Anti-Human Trafficking Act in 2014 and the Anti-Human Trafficking National Plan 2018–2022, the Committee recommends that the State party:**

(a) **Strengthen the effective implementation of the Anti-Human Trafficking Act, including by collecting data on cases of trafficking of children;**

(b) **Ensure the effective provision of referral and support services to child victims of trafficking;**

(c) **Continue to bring perpetrators to justice and conduct awareness-raising activities in order to make both parents and children aware of the dangers of trafficking.**

#### **Administration of juvenile justice**

66. The Committee welcomes the provision in the Children's Act for social workers to assess children in conflict with the law, the establishment of children's courts and the use of detention as a measure of last resort. However, it is concerned about:

- (a) The low age of criminal responsibility;
- (b) The existence of status offences, such as "common nuisance" and "idle and disorderly", leading to the deprivation of liberty of children;
- (c) The lack of specialized juvenile justice personnel in the justice system and the police;
- (d) The use of corporal punishment as a sentence and the lack of non-custodial sentencing options;
- (e) The detention of girls together with adult women.

67. **The Committee urges the State party to bring its juvenile justice system fully into line with the Convention and other relevant standards. In particular, the Committee urges the State party:**

- (a) **To review the age of criminal responsibility in line with internationally accepted standards;**
- (b) **To abolish status offences as criminal offences;**
- (c) **To guarantee adequate human, technical and financial resources for the appointment of specialized professionals and their continuous education and training;**
- (d) **To give urgent consideration to suspending the application of corporal punishment pending its abolition, establishing diversion from an early stage in the system (including through existing mediation processes), promoting the use of non-custodial measures and ensuring the availability of sufficient possibilities for probation, community work and mediation;**
- (e) **To ensure, in cases where detention is unavoidable, that girls are kept separately from adult women, and where this would result in solitary confinement apply non-custodial sentences, and that detention conditions for girls and boys are compliant with international standards, including with regard to access to education and health services, and with a regular consideration of their release.**

#### **Child victims and witnesses of crime**

68. The Committee is concerned about reports that child victims still testify in open court, are subjected to interrogation by perpetrators and are sometimes named in public documents, thus revealing their identities and leading to their revictimization. It is also concerned about reports that child witnesses of crime are sometimes detained for refusing to testify in court.

69. **The Committee recommends that the State party:**

- (a) **Revise the relevant legal provisions on criminal proceedings involving children, including Section 172 of the Criminal Procedure and Evidence Act and Section 93 (1) of the Children's Act, to bring them in line with the Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime;**
- (b) **Prevent the revictimization of children, including by ensuring safe and child-friendly criminal proceedings and applying the special procedures for closed criminal proceedings involving children, with particular emphasis on their protection and confidentiality;**

(c) Prevent the harassment of child victims and witnesses of crime through cross examination;

(d) Ensure that all child victims and witnesses of crime, including child victims of sexual exploitation and abuse, and witnesses of such crimes, are not detained for refusing to testify in court and are provided with the protection required by the Convention.

#### **J. Ratification of the Optional Protocol on a communications procedure**

70. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, ratify the Optional Protocol on a communications procedure.

#### **K. Ratification of international human rights instruments**

71. The Committee recommends that the State party, in order to further strengthen the fulfilment of children's rights, consider ratifying the following core human rights instruments:

- (a) The International Covenant on Economic, Social and Cultural Rights;
- (b) The Convention on the Rights of Persons with Disabilities;
- (c) The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
- (d) The International Convention for the Protection of All Persons from Enforced Disappearance.

72. The Committee urges the State party to fulfil 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, as the related reports have been overdue since, respectively, 4 November 2006 and 24 October 2005.

#### **L. Cooperation with regional bodies**

73. The Committee recommends that the State party cooperate with the African Committee of Experts on the Rights and Welfare of Children of the African Union on the implementation of the Convention and other human rights instruments, both in the State party and in other African Union member States.

### **IV. Implementation and reporting**

#### **A. Follow-up and dissemination**

74. The Committee recommends that the State party take all appropriate measures to ensure that the recommendations contained in the present concluding observations are fully implemented. The Committee also recommends that the combined second and third periodic reports, the written replies to the list of issues and the present concluding observations be made widely available in the languages of the country.

#### **B. National mechanism for reporting and follow-up**

75. The Committee recommends that the State party strengthen the Interministerial Committee on Treaties, Conventions and Protocols mandated to coordinate and prepare reports to international and regional human rights

mechanisms, as well as to coordinate and track national follow-up to and implementation of the treaty obligations and the recommendations and decisions emanating from such mechanisms. It emphasizes that the Interministerial Committee should be adequately and continuously supported by dedicated staff and should have the capacity to consult systematically with civil society.

### C. Next report

76. The Committee invites the State party to submit its combined fourth to sixth periodic reports by 12 April 2024 and to include therein information on the follow-up to the present concluding observations. The report should be in compliance with the Committee's harmonized treaty-specific reporting guidelines adopted on 31 January 2014 (CRC/C/58/Rev.3) and should not exceed 21,200 words (General Assembly resolution 68/268, para. 16). In the event that a report exceeding the established word limit is submitted, the State party will be asked to shorten the report in accordance with the above-mentioned resolution. If the State party is not in a position to review and resubmit the report, translation thereof for the purposes of consideration by the treaty body cannot be guaranteed.

77. The Committee also invites the State party to submit an updated core document, not exceeding 42,400 words, in accordance with the requirements for the common core document contained in the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents (HRI/GEN/2/Rev.6, chap. I) and paragraph 16 of General Assembly resolution 68/268.

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