



ZIMBABWE

A BRIEF ON NON-DISCRIMINATION IN WORK AND EMPLOYMENT, EDUCATION, AND CHILD MARRIAGE (Articles 3, 7, 10, and 13)

*Information for the Committee on Economic, Social, and Cultural Rights
73rd Pre-Sessional Working Group, October 2023*

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INTRODUCTION

The WORLD Policy Analysis Center, based at the University of California, Los Angeles, captures quantitative policy data on more than 2,000 indicators that matter to equality, health, and well-being. We strive to improve the quantity and quality of globally comparative data available to policymakers, citizens, national governments, intergovernmental organizations, civil society, and researchers for all 193 UN member states. We submit the following brief in advance of the 71st Pre-Sessional Working Group of the Committee on Economic, Social, and Cultural Rights.

This brief will focus on the following areas:

1. Child marriage (Articles 3 and 10)
2. Non-discrimination in work and employment (Article 7)
3. Free and compulsory education (Article 13)

We have collected and analyzed information on rights, laws, and policies in these areas for all 193 UN member states using a variety of sources, including primary national legal sources (e.g. original legislation and constitutions), national reports on policies and laws to the United Nations and official global and regional bodies, and secondary sources where clarification or corroboration of primary data is needed. Using a rigorous double-coding process, we create original databases which distill thousands of pages of text to highlight the essential features of each right, law, or policy. These original databases are the reference for the following brief. When drafting each brief, we perform a series of additional verifications to ensure the data provided reflects the current constitutional and legal landscape of a country.

In this report we first provide a summary of our legislative findings, as well as suggested questions for the Committee to ask Zimbabwe and topics we hope the Committee will address in its concluding observations. This summary is followed by detailed legislative excerpts documenting our findings. We hope the Committee will recommend that Zimbabwe address any gaps in consultation and collaboration with relevant stakeholders, including civil society organizations. We also recognize that while having strong laws and policies in place are necessary first steps, implementation is also of paramount importance. In areas where we have commended Zimbabwe for having provisions in place, we hope the Committee will recommend that Zimbabwe work with stakeholders to overcome any obstacles in implementing these provisions.



SUMMARY OF FINDINGS AND RECOMMENDATIONS

1. Non-Discrimination in Work and Employment (Article 7)

On broad prohibitions of workplace discrimination:

Zimbabwe protects against discrimination in “any [...] matter related to employment” on the basis of multiple Covenant groups, including race and colour, sex, religion, political opinion, national origin and disability; **it does not extend this protection on the basis of language, social origin, property, or birth.**

On discrimination in remuneration:

Zimbabwe extends a general protection against discrimination in remuneration on the basis of the Covenant groups described above, including race and colour, sex, religion, political opinion, national origin and disability; **it does not extend this protection on the basis of language, social origin, property, or birth.**

Zimbabwe also extends the stronger protection of equal pay for work of equal value on the basis of sex. **No other Covenant groups are covered by this protection of equal pay for work of equal value.**

On discrimination in promotions:

Similar to the two prohibitions described above, Zimbabwe protect against discrimination in promotion on the basis of multiple Covenant groups, including race and colour, sex, religion, political opinion, national origin and disability; **it does not extend this protection on the basis of language, social origin, property, or birth.**

Table 1. Guaranteed legal provisions of non-discrimination in Zimbabwe across key areas of employment for personal characteristics covered by the Covenant

	Discrimination broadly prohibited	Remuneration	Promotions
Race and colour	✓	✓*	✓
Sex	✓	✓	✓
Language			
Religion	✓	✓*	✓
Political opinion	✓	✓*	✓
National origin	✓	✓*	✓
Social origin			
Property status			
Birth status			
Disability	✓	✓*	✓

**Only the weaker guarantee of equal pay – as opposed to equal pay for work of equal value – is guaranteed.*



**RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING
OBSERVATIONS**

On broad prohibitions of workplace discrimination:

We hope the Committee will:

- In its list of issues, can Zimbabwe provide the Committee with any concrete, near-term steps it is taking to pass legislation that adds broad prohibitions against workplace discrimination on the basis of language, social origin, property and birth status?
 - If concrete, near-term plans are not in place, recommend in its concluding observations that Zimbabwe amend its legislation to provide broad guarantees against workplace discrimination on the basis of language, social origin, property and birth status. These can be added to sections 5.1 and 5.2, which already offer these guarantees on the basis of all other Covenant groups.

On discrimination in remuneration:

We hope the Committee will:

- In its list of issues, can Zimbabwe provide the Committee with any concrete, near-term steps it is taking to pass legislation that extends its existing guarantee of equal pay for work of equal value on the basis of sex to all other Covenant groups?
 - If concrete, near-term plans are not in place, recommend in its concluding observations that Zimbabwe amend its legislation to provide explicit guarantees of equal pay for work of equal value on the basis of race and colour, language, religion, political opinion, national origin, social origin, property status, and birth.

On discrimination in promotions:

We hope the Committee will:

- In its list of issues, can Zimbabwe provide the Committee with any concrete, near-term steps it is taking to pass legislation that adds specific prohibitions against discrimination in promotions on the basis of language, social origin, property and birth status?
 - If concrete, near-term plans are not in place, recommend in its concluding observations that Zimbabwe amend its legislation to provide broad guarantees against discrimination in promotions on the basis of language, social origin, property and birth status. These can be added to sections 5.1, which already offers these guarantees on the basis of all other Covenant groups.

2. Child Marriage (Articles 3, 10)

Based on our review, **Zimbabwe recently passed a new Marriages Act that establishes the minimum age of marriage as 18 for both boys and girls, and allows for no exceptions whatsoever.** We commend



Zimbabwe for passing this amendment; that said, previous to the passage of the law, Zimbabwe's child marriage rates were high, with 34% of girls marrying before 18 and 5% marrying before age 15.¹

RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS

We hope the Committee will:

- In its list of issues, ask Zimbabwe: Given the high rates of child marriage prior to the passage of the Marriages Act of 2022, can Zimbabwe provide any information on what measures it is taking to effectively implement the new prohibition on underage marriage introduced in its 2022 Marriages Act?
 - If Zimbabwe does not have concrete plans to implement this new law, recommend in its concluding observations that Zimbabwe develop a concrete, near-term plan to effectively enforce the new marriage act and reduce rates of child marriage.

3. Free and Compulsory Education (Article 13)

Zimbabwe **amended its Education Act in 2019 to make public primary and lower secondary education free in legislation for the first time**, although fees can still be charged for upper secondary education. We commend Zimbabwe for taking this important step; however, as of 2021, the out-of-school rate for children of primary school age was still relatively high and the out-of-school rate for children of lower secondary age was even higher,² so questions about the implementation of this new law remain.

¹ UNICEF. UNICEF Data Warehouse – Child Marriage. Retrieved July 20, 2023 from https://data.unicef.org/resources/data_explorer/unicef_f/?ag=UNICEF&df=GLOBAL_DATAFLOW&ver=1.0&dq=.PT_F_20-24_MRD_U15+PT_M_20-24_MRD_U18+PT_F_20-24_MRD_U18+PT_M_15-19_MRD+PT_F_15-19_MRD.&startPeriod=2016&endPeriod=2022

² UNESCO Institute for Statistics. SDG 4 March 23 Release. Retrieved July 20, 2023 from <http://sdg4-data.uis.unesco.org/>



RECOMMENDED QUESTIONS FOR THE LIST OF ISSUES AND CONCLUDING OBSERVATIONS

We hope the Committee will:

- In its list of issues, ask Zimbabwe: can Zimbabwe outline any concrete, near-term plans to pass legislation that progressively makes public schooling free through completion of secondary education?
 - If concrete, near-term plans are not in place, recommend in its concluding observations that Zimbabwe pass and implement legislation that makes public education free through the completion of the upper secondary level.
- In its list of issues, ask Zimbabwe: Given that out-of-school rates for primary students do not seem to have changed with the Education Amendment Act of 2019, can Zimbabwe provide any information on what measures it is taking to effectively implement its free education provisions?
 - If Zimbabwe does not have concrete plans to implement this new law, recommend in its concluding observations that Zimbabwe develop a concrete, near-term plan to effectively enforce its new legislative provision to provide free and compulsory primary education.



DETAIL OF LEGISLATIVE FINDINGS

1. Work and Employment (Article 7)

In addition to Article 2(2) and General Comment No. 5 of the Covenant which guarantees equal rights regardless of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and disability status, Article 7 of the Covenant outlines a number of specific measures States Parties shall undertake in order to eliminate discrimination in the field of employment, including specific measures in the areas of remuneration and promotion.

We systematically reviewed national labor codes, penal codes, equal opportunity, anti-discrimination legislation and other relevant legislation available through the International Labour Organization's NATLEX database for all 193 UN member states to determine whether national legislation prohibited workplace discrimination broadly, as well as in employment across the two areas specified in the Covenant:

- Equal remuneration for work of equal value
- Promotions

For each area, we assessed whether there were explicit prohibitions from discrimination across the grounds listed in Article 2.2 and General Comment No. 5 of the Covenant.

ZIMBABWE'S LEGISLATIVE PROVISIONS: COMPREHENSIVE PROTECTIONS EXIST, BUT FAIL TO COVER SOME COVENANT GROUPS AND ONLY COVER EQUAL REMUNERATION

Sections 5.1 and 5.2 of Zimbabwe's main employment act protect comprehensively against discrimination in many aspects of work, including specifically on remuneration, promotions, and "any other matter related to employment". Many Covenant groups are covered by these protections, including race and colour, sex, religion, political opinion, national origin, and disability. However, **we could find no protections specific to language, social origin, property, or birth.**

Labour Code, consolidated to 2019

5. Protection of employees against discrimination

(1) No employer shall discriminate against any employee or prospective employee on grounds of race, tribe, place of origin, political opinion, colour, creed, gender, pregnancy, HIV/AIDS status or, subject to the Disabled Persons Act [Chapter 17:01], any disability referred to in the definition of "disabled person" in that Act, in relation to—

(...)

(d) the determination or allocation of wages, salaries, pensions, accommodation, leave or other such benefits; or

(e) the choice of persons for jobs or posts, training, advancement, apprenticeships, transfer, promotion or retrenchment; or



(...)

(g) any other matter related to employment.

(2) No person shall discriminate against any employee or prospective employee on the grounds of race, tribe, place of origin, political opinion, colour, creed, gender, pregnancy, HIV/AIDS status or, subject to the Disabled Persons Act [Chapter 17:01], any disability referred to in the definition of “disabled person” in that Act, in relation to—

(...)

(d) any other matter related to employment.

In addition, section 5.2a of the same law requires employers to pay equal remuneration for work of equal value on the basis of sex. As indicated above, most Covenant groups are protected from discrimination in remuneration, but the greater protection of equal pay for work of equal value is afforded to no other groups besides sex, including on the basis of race, colour, language, religion, political or other opinion, national or social origin, property, birth or other status, and disability status.

Labour Code, consolidated to 2019

5. Protection of employees against discrimination

(...)

(2a) No employer shall fail to pay equal remuneration to male and female employees for work of equal value.

(...)

2. Child Marriage (Articles 3, 10)

Article 10 (1) of the Covenant states that all States Parties must recognize that:

[...] Marriage must be entered into with the free consent of the intending spouses.

Additionally, Article 3 guarantees this right to be applied to all persons equally regardless of sex:

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

Child marriage has life-long health, educational, and economic consequences, particularly for girls. Child brides are more likely to drop out of school, be victims of domestic abuse, and experience pregnancy and childbirth complications due to early childbearing, all of which affect core rights of the Covenant, specifically the right to physical and mental health (Article 12), and the right to education (Article 13).

We systematically reviewed national civil codes and child-related legislation for all 193 UN member states to determine whether national legislation established a minimum age of marriage for both girls



and boys generally, with parental consent, and under religious and customary law. We reviewed all legislation available through the Lexadin World Law Guide, Foreign Law Guide, International Labor Organization's NATLEX database, Pacific Islands Legal Information Institute, Asian Legal Information Institute, JaFBase, and official country websites.

ZIMBABWE'S LEGISLATIVE PROVISIONS: ZIMBABWE RECENTLY PROHIBITED UNDERAGE MARRIAGE, BUT QUESTIONS ABOUT IMPLEMENTATION REMAIN

Based on our review, Zimbabwe passed a new Marriages Act that came into effect in August 2022. This law bans underage marriage for the first time, criminalizing those who abet it and explicitly rejecting any exceptions to the minimum age of marriage.

Marriages Act of 2022

Article 16

Section 3. Minimum age of marriage

(1) No person under the age of eighteen years may contract a marriage or enter into an unregistered customary law marriage or a civil partnership.

(2) For the avoidance of any doubt, it is declared that child marriages are prohibited and under no circumstances shall any person contract, solemnise, promote, permit, allow or coerce or aid or abet the contracting, solemnising, promotion, permitting, allowing or coercion of the marriage, unregistered customary law marriage or civil partnership, or the pledging, promise in marriage or betrothal of a child.

(3) Any person, other than the child concerned, who contravenes subsection (2), shall be guilty of an offence and liable to a fine not exceeding level 10 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

(4) It shall be an aggravating factor in an offence referred to in subsection (3) that the contravention was by a parent or a person in loco parentis to the child concerned.

We commend Zimbabwe for passing this important new legislation, which eliminated all previous exceptions and loopholes that used to allow the marriage of children under 18. **However, prior to the passage of this law, child marriage rates were exceedingly high in Zimbabwe: in 2019, 34% of women aged 20-24 had been married before age 18, and 5% had been married before age 15,**³ so this should remain a matter of ongoing attention. The new law's effect on reducing these numbers is not yet known.

³ 2019 data taken from UNICEF. UNICEF Data Warehouse – Child Marriage. Retrieved July 20, 2023 from https://data.unicef.org/resources/data_explorer/unicef_f/?ag=UNICEF&df=GLOBAL_DATAFLOW&ver=1.0&dq=.PT_F_20-24_MRD_U15+PT_M_20-24_MRD_U18+PT_F_20-24_MRD_U18+PT_M_15-19_MRD+PT_F_15-19_MRD.&startPeriod=2016&endPeriod=2022



3. Free and Compulsory Education (Articles 13)

Article 13 of the Covenant states that:

1. *The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.*
2. *The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:*
 - (a) *Primary education shall be compulsory and available free to all;*
 - (b) *Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;*

For all 193 UN member states, we systematically reviewed education acts and child protection laws available online through UNESCO's Observatory on the Right to Education Library and International Labour Organization's NATLEX database. Through the review we determined whether national legislation guaranteed free and compulsory education at the primary and secondary level.

ZIMBABWE'S LEGISLATIVE PROVISIONS: LEGISLATION RECENTLY MADE PRIMARY AND LOWER SECONDARY EDUCATION BOTH COMPULSORY AND FREE

Zimbabwe amended its Education Act in 2019 to make public primary and lower secondary education free in legislation for the first time; as far as our research indicates, upper secondary education is not yet free. We commend Zimbabwe for taking this important step but, as of 2021, 6.2% of children of primary school age were out of school, which is an increase over the 5.7% that were out of school in 2018 prior to the passage of the amendment; the out-of-school rate for children of lower secondary age was even higher, at 21.6%. Implementation of free and compulsory education therefore remains an open issue.⁴

Education Amendment Act (2019)

Section 2 ("Interpretation") of the Education Act [Chapter 25:04] (hereinafter called the "principal Act") is amended—

(a) by the insertion of the following definitions—

⁴ UNESCO Institute for Statistics. SDG 4 March 23 Release. Retrieved July 20, 2023 from <http://sdg4-data.uis.unesco.org/>



“basic education” means education from early childhood education up to the fourth form and any other category as may be declared as such by the Minister by Notice in the Gazette from time to time;

“basic state funded education” means

(a) education from early childhood education up to form four; or

(...)

Section 5 (“Compulsory education”), of the principal Act is repealed and substituted with the following—

“5 Compulsory education

(1) Every child shall be entitled to compulsory basic state funded education.

(2) Any parent who deprives their child the right to basic state funded education shall be guilty of an offence and liable to a fine not exceeding level 6 or to imprisonment for a period not exceeding two years.”.