

## **Statement on education sector preparedness to re-open schools during the COVID-19 pandemic**

### **1. Introduction and background**

The Zimbabwe Human Rights Commission (ZHRC) is mandated to monitor the observance of human rights and freedoms by Section 243 (1) (c) of the Constitution of Zimbabwe Amendment (No.20) Act 2013. According to the Principles relating to the Status of National Human Rights Institutions (NHRIs) (Paris Principles, 1993), NHRIs such as ZHRC have the general responsibility to submit to the Government, Parliament and any other competent body, on an advisory basis, opinions, recommendations, proposals and reports on any matter concerning the promotion and protection of human rights. It is against this background that ZHRC conducted an assessment of enjoyment of the Right to Education in the wake of the COVID 19 pandemic. This followed statements issued by Government with regards to the progressive re-opening of schools which were prematurely closed in March 2020 due to the COVID-19 pandemic.

Since the pronouncement of COVID 19 as a national disaster, ZHRC has been monitoring the human rights environment across the country, and issuing statements which highlight the prevailing human rights situation. From the 1st to the 5th of June 2020, ZHRC focused attention on assessment of the preparedness of the education sector to re-open schools during the COVID-19 pandemic. This assessment looked at enjoyment of the right to education vis-à-vis enjoyment of rights to health and life. The ZHRC sampled government, mission, council owned and elite private schools in Harare, Bulawayo, Norton, Chegutu, Kadoma, Mhondoro, Marondera, Rusape, Nyazura, Nyanga, Chinhoyi, Karoi, Bindura, Masvingo, Murewa, Mutoko, Chiweshe, Goromonzi among others.

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In its assessment, ZHRC established a serious conflict of rights between education, health and life. Since human rights are by their very nature inter-dependent and indivisible, the question is which right/s should take precedence over the others? This human rights dilemma is further compounded by the fact that Government closed schools when the country only had four (4) confirmed cases of the pandemic but a decision is being made to re-open schools when cases have spiralled beyond three hundred (300). This brings to question, the issue of the best interests of the child as enshrined in Article 3 of the Convention on the Rights of the Child, Article 3 of the African Charter on the Rights and Welfare of the Child and Section 81 (2) of the Constitution of Zimbabwe. These provisions reiterate that the best interests of the child should be paramount in every matter concerning the child.

### **2. Best Interests of the Child**

Section 4 of the Education Act [Chapter 25:04] provides for the children's fundamental right to education without discrimination. International and regional Instruments to which Zimbabwe is a party, such as Articles 2 and 3 of The

Convention on the Rights of the Child (CRC) read together with Articles 3 and 4 of the African Charter on the Rights and Welfare of Children (ACRWC) provide that every child shall be entitled to the enjoyment of the rights and freedoms enshrined therein without any form of discrimination. Further, in all actions concerning the child undertaken by any person or authority the best interests of the child shall be the primary consideration. At the same time, Article 14 of the ACRWC reiterates that every child shall have the right to enjoy the best attainable state of physical, mental and spiritual health. The Committee on the Rights of the Child, in General Comment No. 14 (2013) highlighted that, assessing the best interests of a child means “to evaluate and balance all the elements necessary to make a decision in a specific situation for a specific individual child or group of children, to include the child’s wellbeing, situations of vulnerability, their rights and needs with regard to health and education”, among other issues. The same Committee added that the objective of the best interests’ determination process is the identification of a durable solution. Best interests’ determinations are carried out when the issues at stake are expected to have significant implications on the child’s present and future life. The different elements considered in an assessment and determination of the best interests of a child are usually competing or in contradiction. Potential conflicts need to be solved

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on a case-by-case basis. Thus, a larger weight should be attached to what serves the child’s interests best.

The Government therefore, has the obligation to weigh three critical rights at this point which are the sacred Right to Life (Section 48), the Right to Health Care (Section 76) and the equally important Right to Education (Section 75).

### 3. Views of school children

Article 12 of the CRC, provides that States shall accord the child who is capable of forming his or her own views, the right to express those views freely in all matters affecting the child, and that these views should be given due weight in accordance with the age and maturity of the child. ZHRC had an opportunity to interact with pupils of both primary and secondary school levels. ZHRC acknowledges the fact that students have knowledge on COVID 19, the dangers and precautionary measures involved. Upon being interviewed on their views on schools opening, some learners were of the view that schools should open as they were getting idle at home; some want to finalise their studies through writing of examinations. Another group of learners highlighted that they do not want to repeat classes next year so they supported the Government’s decision to re-open schools. The junior learners indicated that they wanted to go back to school to meet and play with their friends whom they last saw more than two months ago.

The majority of the students interviewed however, were of the view that opening of schools should be put on hold, (just like during the liberation struggle) and open when it is safe to do so. They raised fears that concentration of students coming from different homes, would expose them to the pandemic. They also stated that due

to limitation of resources within their schools, it would be difficult for them (schools) to guarantee students' safety. Equally of concern was the fact that their guardians did not have enough resources to provide them with protective equipment such as masks, and hand sanitizers. Again, some students indicated that they considered the opening of schools during the pandemic, as an experiment with their precious gift of life, and therefore were not willing to go back to school, with some saying that they were prepared to repeat their current classes next year.

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#### 4. Access to Information (Section 62)

Section 62(1) of the Constitution provides for the right to access any information held by the State, or any institution or agency of Government at every level, in so far as the information is required in the interests of public accountability. Furthermore, Section 29 (3) of the Constitution makes emphasis on the obligation of the State to take all preventive measures necessary including education and public awareness programmes in order to prevent the spread of diseases. The question is "has this been accomplished".

The ZHRC noted a gap in the dissemination of information relating to re-opening of schools by the Ministry of Primary and Secondary Education, to educators, learners, parents and guardians across the country. School administrators and other educators raised concerns over inconsistencies in information being disseminated by different Government officials (through official social media platforms, print and electronic media), which they said was causing a lot of confusion amongst them. The Ministry of Primary and Secondary Education, Ministry of Information and Broadcasting Services as well as the Parliamentary Portfolio Committee on Primary and Secondary Education have been concurrently issuing out statements on reopening of schools. Some of the statements have been inconsistent. Educators stated that they were not sure of the preparatory measures which need to be put in place ahead of re-opening of schools, the timeframe and actual dates for re-opening remain uncertain, the extent of the responsibilities of learning institutions versus the contribution of Government in the preparation, was also highlighted as being murky. In some of the schools visited, school administrators highlighted that they had adopted a 'wait and see attitude'. They simply await circulars from the relevant ministry giving directions on how the re-opening of schools should proceed. School authorities also indicated that the information dissemination process was only vertical, with information descending from high offices, without any consultations with the affected people on the ground such as heads of schools, teachers and students. They felt that some of the proposed measures being advanced by Government were unrealistic, and that wider consultations would have assisted with coming up with practical measures in the Education sector during this pandemic.

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School Authorities reported that they had limited access to information on COVID 19. They indicated that they only receive updates from social media, radio and

television. Those in rural and farming communities where satellite signals are poor, failed to access relevant information on prevention and protection measures in light of the pandemic. It was further highlighted that health issues remained a technical matter, making it difficult for educators to fully comprehend the safety demands for COVID 19, without adequate awareness raising on the issues. It was also highlighted that there was limited understanding on the World Health Organisation (WHO) COVID-19 Guidelines, which schools have been instructed to meet, as they prepare for re-opening. They said so far they had been told to produce their own face masks and hand sanitisers. This information gap negatively affects the preparations for re-opening by learning institutions.

Educators demonstrated lack of information and guidance with regards to the modalities around the testing of staff and pupils before and after schools open. Both guardians and school authorities were of the view that there was need for prior testing of teachers, support staff as well as students before opening (to cater for the window or asymptomatic periods); upon opening of schools testing and temperature screening should be carried out regularly during the school term. It was stated that testing of body temperature on its own was not adequate, especially when preparing for people coming from different areas who would come and be concentrated in one place. In relation to temperature screening during the course of the term, it is not clear on who has the responsibility of screening staff and students when schools open. If the teachers bear that responsibility, it is not clear if they will be trained on how to effectively carry out the task.

Schools also highlighted that they received an instruction that the Fashion and Fabrics Departments together with fellow teaching personnel within schools had the responsibility of making face masks. It was highlighted that there were no clear guidelines and quality control measures in the production of the masks (the same applied to the science departments that were tasked to produce hand sanitizers). Schools also raised the issue of exorbitant testing fees which should be paid to laboratories for testing the quality of hand sanitisers produced by schools. There is

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high risk that schools may be forced by financial circumstances to avail the hand sanitisers for use without going through the requisite testing.

Further, there are challenges that in the majority of schools, there is limited personnel available at the work stations because of travel restrictions imposed due to the lockdown. The presence of skeletal staff at learning institutions hampers the preparatory work which should be carried out prior to re-opening of schools. The travel restrictions and demand for exemption letters by the police also affects movements relating to preparation for the impending public examinations in June 2020. Some educators ended up paying bribes to the police in order to secure passage while carrying out official duties. This caused financial prejudice on their already strained financial resources.

It also emerged that there were no clear guidelines on the roles that different

Government entities should play in administering precautionary measures, in preparation for opening of schools. Schools also had questions on who had the responsibility to fumigate their premises, for instance, was it the role of schools or the Ministry responsible for Local Government, through Environmental Health Technicians (EHTs) from local authorities?

#### 5. The Principle on Non-Discrimination and Equality

The Committee on Economic, Social and Cultural Rights 39th Session (General Comment No. 19, 2007) highlighted that, under international human rights law, States are expected to eliminate direct and indirect discrimination in law and practice on any grounds. It also requires States to take special measures to protect the most vulnerable segments of the population as a matter of priority. Thus, during this COVID-19 pandemic, the State has the obligation to ensure that even the marginalised schools such as those in the peri-urban, farming and rural communities are assisted so that they are in a position to put in place measures to ensure safety of staff and students in the event that schools re-open.

ZHRC established that there were huge discrepancies between the elite private and trust schools on one hand and most Government, Mission and Council schools around the country on the other hand. The elite private schools indicated that they

6 had managed to do their research and put in place precautionary measures at their institutions. This had been made possible due to the fact that they spread the cost of COVID 19 safety measures to the parents and guardians of their pupils, and that the guardians had the capacity to pay in foreign currency (United States Dollars). However, this was not the same with the other schools which indicated that their financial resources from last term's fees had run out since they still needed to pay overhead costs such as water, electricity, internet services, telephone bills as well as salaries for ancillary staff such as janitors and clerks. This therefore means that some of the schools cannot procure any materials for producing personal protective equipment and materials such as face masks and hand sanitisers. At the same time, parents and guardians of learners at these schools highlighted that they were equally financially constrained and unable to make any payments of school fees if schools remained closed since there was no direct benefit to the children.

The introduction of electronic learning (e-learning) also raised some complaints of discrimination on the basis of economic and social status, which is prohibited by Section 56 (3) of the Constitution. Some parents and guardians lamented the fact that they did not have internet connection at home and at the same time could not afford to buy data bundles which would enable their children to take part in virtual learning. Due to this discrepancy in economic status, it was observed that it was mainly the elite private schools which could meaningfully conduct google and zoom classes. On the other hand, government, mission and council schools indicated that they were not able to conduct virtual lessons due to lack of compatible electronic gadgets and limited access to internet services which are highly expensive. The

discrepancy is in that while one group of elite students has already commenced classes through virtual learning, the economically disadvantaged group was excluded from this mode of learning yet learners from both private and public schools were expected to write the same examinations, at the same time.

Also of concern to the ZHRC is the threat to the enjoyment of labour rights, by the support staff working at schools, whose needs are supposed to be met even during school holidays and during this pandemic. Section 65 of the Constitution provides that citizens have the right to safe labour practices and standards and to be paid a fair and reasonable wage, and that every employee is entitled to just, equitable and

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satisfactory conditions of work. ZHRC established that schools were struggling to ensure the realisation of this right for their support staff, as a result of non-payment of fees, and the erosion of few savings by inflation.

#### 6. Hygiene issues

Section 73 of the Constitution provides for environmental rights, by stating that every person has the right to an environment that is not harmful to their health and wellbeing. Section 77 provides for the right to safe, clean and potable water. The key safeguards to combating COVID 19, are the strict practising of hygiene, through staying in a clean environment and constant washing of hands with clean water and soap. Most schools in the peri-urban and rural communities indicated that they were encountering serious water challenges within their institutions. In some schools it was reported that they were relying solely on the Zimbabwe National Water Authority (ZINWA) or council water, and had no back up storage tanks to cater for rationing periods. ZHRC also noted that there was a significant number of schools that did not have any source of water at their premises, so learners are asked to take turns to fetch water from nearby schools to use at the schools. Some schools stated that they were failing to repair boreholes which were installed by development partners and other well-wishers, due to lack of financial resources. For these schools, it is difficult to keep a clean environment since access to water is a real nightmare. At such schools, in the event that schools open without reliable sources of water, the likelihood of experiencing disease outbreaks due to poor hygiene is high, over and above the threat of COVID-19 pandemic.

#### 7. Limited availability of financial resources

ZHRC gathered that most schools do not have enough finances for them to put in place precautionary measures against COVID 19 before schools open. Some schools indicated that they solely depended on fees payments for operations. These schools last received finances last term, and any few savings that remained were eroded by inflation or exhausted by operational costs such as payment of salaries for ancillary staff and payments for utility bills. This limitation in finances made it impossible for schools to procure materials and chemicals for producing face masks and hand sanitizers. It was also highlighted that thermo-scanners were unaffordable with prices ranging between US\$60 to US\$80 each, an amount which is beyond the

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reach of many schools, considering that more than one thermo-scanner is required at a school.

#### 8. Infrastructural limitations

ZHRC notes with concern the limitations in infrastructure at the majority of schools visited by the Commission around the country. One of the COVID 19 safety measures is that people need to practice social/ physical distancing. ZHRC noted that in most schools, students share study desks, such that if social distancing is to be implemented, more individual desks need to be procured. In regards to some Government, mission and council owned boarding schools, it emerged that the hostels were already crowded due to big enrolments, and for children to practise social distancing, there is need to decongest hostels and create extra accommodation. This decongestion of hostels is a mammoth task due to limited financial resources. Boarding schools also highlighted the challenge of dividing students during meal times so as not to crowd the dining halls, and that if students were to be grouped in the acceptable numbers taking turns to have their meals, that would also eat into learning time as well.

In some schools that have shift learning “hot sitting” programmes for learners due to the big enrolments and limited classrooms, concerns are on how classes can be further divided in light of the existing pandemic. These institutions are also concerned with the modalities around disinfection of the classrooms and furniture since learners take turns to have lessons, leaving no adequate time for disinfecting the facilities. ZHRC also noted the ablution facilities for staff and students at schools are limited such that there is risk of infection with the virus since there are too many people touching the same surfaces in these facilities.

#### 9. Concerns of Educators

Educators raised serious concerns over their own safety and enjoyment of the right to health. They indicated that once schools open, they would be exposed to mass infections, due to the influx of students coming from different homes and backgrounds, as well as getting in contact with learning materials such as books when they mark them. It was highlighted that there were some amongst them who

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had underlying chronic ailments, and that these had genuine fears of contracting COVID-19, if schools open during the pandemic.

Teachers at some of the schools that were visited indicated that as breadwinners for their families, they feared exposure to the pandemic and infection by the Corona virus which could result in fatal consequences. They advised that given a choice they would rather wait for the pandemic to subside before resuming work since life is precious and if lost cannot be regained. They said if directed to return to work, they would only do so due to fear of victimisation and reprisals by the employer. They feared losing their jobs which are the only sources of income for them and their families. Some teachers also felt that in as much as their representative unions were

engaging with the policy-makers at higher levels, their (teachers) voices were not being heard. They argued that during the liberation struggle, schools were closed down for two to three years due to personal security threats and people returned to school after the war. It was their submission that the same stance be adopted during this pandemic, since it is better to sacrifice the academic year rather than experimenting with human lives.

In relation to compliance with use of personal protective items, some teachers indicated that face masks were by their very nature uncomfortable apparels which one could not continuously wear for the whole day, especially when administering lessons. The same applies to learners who would most likely discard the masks as the day progressed due to discomfort. This problem would be most prevalent with junior primary school learners who require constant supervision even in a non-COVID-19 situation. Teachers will therefore be forced to assume the role of 'compliance officers' who police the learners to ensure that they remain with their face masks for the rest of the day. This becomes an additional burden to teachers who are already inundated with their core duties.

In terms of level of health vulnerability, teachers viewed their work which involves getting in contact with huge masses of learners on a day to day basis as being more risky than that of health personnel, thus deserving payment of risk allowances by the employer. ZHRC received mixed submissions from different stakeholders on the issue of payment of risk allowance to teachers. Some stakeholders were of the view

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that since teachers are equally exposed to the virus just like health personnel, it is prudent for the Government to cushion them with a COVID 19 risk allowance.

However, there were some who were of the view that there was no adequate monetary value which could be placed on human life so no amount of risk allowance could compensate for a threat to the right to life. It was suggested that Government should put in place measures that ensure safety at the work place to enable teachers to conduct their duties comfortably and with confidence that their lives were secure and being prioritised.

#### 10. Administration of examinations

ZHRC takes note of the communication by Government relating to the 2020 June examinations which will commence on the 30th of June 2020. In as much as ZHRC appreciates the need for candidates to complete their assessments, there are however important factors that need consideration. Issues that came out during the monitoring mission were that schools which serve as examination centres do not receive financial support from the examination board (ZIMSEC), but they are expected to run examinations including handling of external candidates. This was seen as a cause for concern since the schools which may not be able to meet its own requirements for personal protective equipment may not be able to meet the needs of external candidates. Again, it is not clear on whether or not the schools have the responsibility of providing candidates with hand sanitisers or face masks in



the event that a candidate comes for an examination without a face mask, or that the responsibility lies with ZIMSEC or the candidates themselves. Lack of clarity on these pertinent issues, was highlighted as a barrier to preparatory work for the public examinations. It was also highlighted that it was going to be uncomfortable for candidates to write examinations wearing face masks, especially those with allergies or respiratory conditions such as asthma.

In urban settings, there was mention of mobility restrictions as a challenge to candidates if examinations are written during the lockdown, especially for students who commute from different suburbs to get to school. It was not clear on what measures would be put in place to guarantee the free movement of candidates and invigilators in such circumstances. Furthermore, issues around social distancing and

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infrastructure as highlighted before would equally apply during writing of public examinations.

#### 11.Recommendations

To: The Government of Zimbabwe

11.1. Government should constantly apply the principle of the best interest of the child in its deliberations to open schools during the COVID 19 pandemic.

11.2. Government should improve on transparent collaboration of relevant State institutions, such as those responsible for health, social welfare, education and local government so that there are clear terms of reference which specify the role of each of the institutions on the opening of schools. There should also be one State mouthpiece which disseminates the government's position to avoid inconsistencies and contradictions

11.3. Government should conduct a needs assessment at needy schools such as those in the rural, farming and high density communities so as to identify specific gaps and needs, and offer adequate support before opening of schools. There is need to avoid a "blanket" form of support/ intervention.

11.4. Government should consider provision of make shift classrooms such as tents in schools around the country, in order for social distancing to be implemented.

11.5. Government should ensure that thorough COVID-19 screening is carried out as opposed to mere measurement of body temperature. There should be periodic testing of learners and teachers before and after schools have reopened to cater for the window periods of COVID-19. Government should issue out certifications of such screenings (like the yellow fever certificate) and people should keep the records in order to keep track of the screening and certifications that they have gone through.

11.6. Government should issue out a form of certification for compliance with the set COVID 19 precautionary guidelines to schools that would have met the set standards for them to open. Government should also set out measures on how those (schools) that would have failed to meet the certification standards will be assisted for them to re-open together with others in line with the principles of

non-discrimination and equality.

11.7. Government should communicate effectively on measures which have been put in place regarding re-opening of schools that were being used as quarantine  
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centres. Issues which require clarification include the timelines for vacation of school based quarantine facilities by the residents housed in these facilities, frequency of fumigation and how the schools will be certified as fit for use and safe for occupation.

To: The Ministry of Primary and Secondary Education

11.8. The Ministry of Primary and Secondary Education should provide schools with clear guidelines, checklists and a comprehensive work plans with timelines, in relation to opening of schools, specifying the responsible actors as well as types and sources of resources required for each aspect of the preparatory process.

11.9. The Ministry should adopt principles of participatory governance whereby it engages with its primary stakeholders such as educators, parents, guardians and learners when making decisions of a public interest nature, instead of only engaging in summit or high level consultative processes which exclude internal stakeholders.

11.10. The Ministry of Primary and Secondary Education in liaison with the Ministry of Finance and Economic Development should consider the allocation of risk allowances to educators and at the same time ensuring that schools have safe and secure working environments which enable schools to re-open during the pandemic. Safety measures need to be guaranteed and met first before opening of schools. If Government encounters challenges in guaranteeing these measures, then opening of schools should be postponed until the Government obtains the necessary resources to guarantee the rights to health and life of learners, teachers, ancillary staff at schools as well as parents and guardians or postpone re-opening of schools until the pandemic is over.

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