A REPORT ON THE ASSESSMENT OF PUBLIC HEALTH FOLLOWING THE 2018 DOCTORS AND NURSES STRIKES IN ZIMBABWE

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1. Mandate of the Commission

1.1. The Zimbabwe Human Rights Commission (ZHRC/Commission) is established as an Independent Commission in terms of Section 242 of the Constitution of Zimbabwe.[1] The functions of the ZHRC are set out in terms of Section 243 (1)(a) –(k) which include among others: to promote awareness of and respect for human rights and freedoms at all levels of society; to promote the protection, development and attainment of human rights and freedoms; to receive and consider complaints from the public and to take such action in regard to the complaints as it considers appropriate, and to investigate the conduct of any authority or person where it is alleged that any of the human rights and freedoms set out in the Declaration of Rights has been violated by that authority or person.

2. Background of the Assessment

2.1. Following the recurring strikes by medical personnel particularly doctors and nurses, the Commission took an initiative to conduct an assessment into the challenges faced in the Health Sector. The ZHRC took this initiative to obtain an appreciation of how hospitals function and how recurring strikes impact on human rights. It is common cause that when medical personnel strike, several rights of the population are violated chief among them the right to health care and ultimately the right to life.

2.2. In 2018, junior and senior doctors embarked on a strike from 1 March to around 28 March owing to poor working conditions. At the time of carrying out this assessment, nurses also embarked on an industrial action. One of the functions of the Commission is to recommend to Parliament effective measures to promote

[1] Constitution of Zimbabwe Amendment (No 20) Act 2013 herein referred to as the "Constitution".

human rights and freedoms.[2] It is in line with its mandate that that the ZHRC in its advisory capacity to the Government of Zimbabwe through Parliament presents this report.

2.3. The national objectives enshrined in the Constitution of Zimbabwe recognise the importance of health services, it obliges the State to take all practical measures to ensure the provision of basic, accessible and adequate health services throughout Zimbabwe.[3] The right to health care is provided for in terms of Section 76 of the Constitution of Zimbabwe which states that: 'every citizen and permanent resident of Zimbabwe has the right to have access to basic health-care services, including reproductive health-care services".

2.4. A question then arises as to what constitutes basic health-care? The uslegal.com[4] defines basic health care as "those services that include in and out of-the-area- emergency services, inpatient hospital and physician care, outpatient medical services, laboratory and radiology services and preventative services". When medical personnel are on strike, most of the services are affected.

2.5. The Committee on Economic Social and Cultural Rights in their General Comment 14[5] on Article 25.1 of the Universal Declaration of Human Rights affirms that: -

"Everyone has the right to a standard of living adequate for the health of himself and of his family, including food, clothing, and housing and medical care and necessary social services. Health is a fundamental human right indispensable for the exercise of other human rights. Every human being is entitled to the enjoyment of the highest attainable standard of health conducive to living a life in dignity. The right to health is intricately linked to the right to life. In accordance with article 12.1 of

[2] Supra Section 243(1) (i).
[3] Section 29
[4] https://definitions.uslegal.com/b/basic-health-care-services/
[5] CESCR General Comment No. 14: The Right to the Highest Attainable Standard of Health Art 12. Adopted at the Twenty-second Session of the Committee on Economic, Social and Cultural Rights, on 11 August 2000 (Contained in Document E/C.12/2000/4).

the Covenant,[6] State parties recognize "the right of everyone to the enjoyment of the highest attainable standard of physical and mental health".

2.6. In September 2000, 189 Heads of States adopted the Millennium Declaration designed to improve social and economic conditions in the world's poorest countries by 2015. Subsequently, a set of eight goals were devised, drawing on the Millennium Declaration, as a way of tracking progress. On the regional front, in April 2001, the African Union countries met and pledged to set a target of allocating at least 15% of their annual (country) budget to improve the health sector and urged donor countries to scale up support.[7]

2.7. The annual allocation of the Ministry of Health and Child Care since 2001 has remained below the 15% of the Abuja target and the Sub-Saharan Africa average of 11.3%.[8] It has continuously dwindled as Government cites budgetary constraints amidst a struggling economy. Fiscal allocation to the health sector in particular to the hospitals has been inadequate.[9] In 2016, the health care budget allocated 63% to salaries while 4, 3% went to Hospitals and Health Centres.[10] This is an unfortunate situation, where there is a continued imbalance within the public sector, and most funds are catering for employment related costs.[11]

3. Methodology

The Zimbabwe Human Rights Commission conducted interviews and paid visits to Ministry of Health and Child Care Head Office, Provincial Medical Directors for Masvingo Province, Matabeleland North, and

[6] International Covenant on Economic Social and Cultural Rights adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 3 January 1976, in accordance with article 27.
[7] The pledge became known as the Abuja Declaration.http://www.who.int/healthsystems/publications/abuja_declaration/en/
[8]Zimbabwe2016 Health and Child Care Budget Brief https://www.unicef.org/zimbabwe/Zimbabwe_2016_Health_and_Child_Care_Budget_Brief.pdf
[9] See Annexure 1 for budgetary allocations to the MoHCC from 2013 to 2018. Source http://www.zimtreasury.gov.zw/index.php/budget-policy-statements

[10] See Table annexed hereto
[11] See also www.sundaymail.co.zw/health-sector underfunded/ accessed 22 October 2018.

Matabeleland South, Chief Executive Officers for Chitungwiza Hospital, Mpilo Hospital and the Public Relations Officer for Parirenyatwa Hospital, the Clinical Director at Harare Hospital, and Medical Superintendents at Chivhu, Mutare, Bindura, Kadoma, Gwanda and St Luke's Hospitals in Lupane. The ZHRC also had meetings with the Zimbabwe Hospital Doctors Association (ZHDA), The Zimbabwe Nurses Association and the Health Services Board.

4. Findings

4.1. Impact of strikes

4.1.1. Through the interviews held, the ZHRC gathered that industrial actions by doctors and health care service staff ultimately impacts on third parties who are the patients. When doctors and nurses strike, patients are exposed to serious harm. Further, strikes have several implications on patients and ultimately rights to health care and life are compromised. Whenever doctors and nurses strike, there is disruption to patient care which may lead to loss of life. There is increased financial burden to patients as they have to seek health care in costly private hospitals and when they cannot afford to do so, there is increased morbidity and mortality especially amongst the poor. In this regard there is unequal access to quality medical care, only the rich will get it.

4.1.2. The recurrence of the strikes by health care professionals over the past decade has shown that there is a systemic root cause to this and there has been no lasting solution to this problem. The health sector should be treated differently to other sectors as the right to health has a bearing on the right to life ultimately. The employer, the Health Services Board (HSB) has been able to mitigate these recurring strikes through negotiated increase in allowances but not salaries. An increase in salaries would mean an increase throughout the entire public sector. It has been noted that some of the salaries

are below the poverty datum line which was at $522 as of October 2017[12] for a family of five.

4.2. Financial resources

4.2.1. The funding of health services in public health institutions by the Ministry of Finance and Economic Development was highlighted as the major challenge bedevilling health service delivery. All hospitals visited indicated that of the budgetary requests they make, they receive a small percentage from Treasury, further, they receive the money late and it is disbursed in small batches. One Central Hospital indicated that its annual budgetary needs amount to about $18 000 000 (eighteen million dollars) but in the year 2017 they received $900 000 (nine hundred thousand dollars) which was released 'in the system' and not as cash. This is only 5% of their yearly needs and in essence affected hospital operations and service delivery. Due to lack of funds, the hospital is currently facing lawsuits amounting to $4,2 million due to the inability to service debts for that particular hospital.

4.2.2. Administrative staff at public hospitals reported that they have running battles with service providers due to inability to service debts on time. Debts incurred by hospitals also affect their budgets as they have to sometimes pay 2017 debts using part of their 2018 budget. Other hospitals indicated that they rely more on donors to fund specific projects, but more could be done through prioritization of Results Based Financing (RBF).

4.2.3. Some hospitals cited that they sometimes receive funds to utilise towards the end of the year which poses challenges to spend the funds considering that there are procurement procedures that have to be complied with. This also gives a negative perception that some hospitals failed or are failing to spend money that has been allocated to them.

[12] http://www.zimstat.co.zw/sites/default/files/img/publications/Prices/PDL_10_2017.pdf

4.3. Shortage of drugs and essential equipment

4.3.1. The availability of essential drugs and equipment was said to be problematic and precarious in all hospitals. The assessment gathered that shortages and, in some instances, non-availability of essential equipment such as gloves, surgical masks exposes medical personnel to diseases and this is a major contributory factor to the disgruntlement among health professionals. The non-availability of intravenous fluids, basic painkillers and other vital medicines at referral hospitals are an indication that the public health system in Zimbabwe is in crisis.

4.3.2. It was noted that some hospitals are stocked with some essential drugs but due to compromised administration these drugs end up expiring. There were allegations that it was a way to ensure that pharmacies that are near the hospital are viable as some are owned by the interested parties. Therefore, they would benefit from not distributing the drugs that are there but rather refer patients to other pharmacies.

4.3.3. It was gathered that some hospitals have entered into private partnerships with pharmacies so as to complement hospital drug stocks. It is alleged that due to corruption, private pharmacies have in a way replaced hospital pharmacies and created drug monopolies so that those hospital administrators who have shares in these pharmacies profiteer from the huge drug demand. The Ministry of Health and Child Care has currently stopped private partnerships so as to re-assess their benefit to the government and the patients.

4.3.4. They also reported that some of the equipment they have has become obsolete and is very difficult to repair when it breaks down as it is no longer manufactured. Furthermore, most of the equipment in our hospitals is not made in Zimbabwe and requires that you bring in personnel from countries of origin should it breakdown, this is costly to the hospital and affects the smooth running of their operations. Hospitals are in these

instances forced to refer patients to private suppliers which in turn is costly on the patients. Hospitals also require Foreign Currency to service some of their equipment and this is not readily available and, in some instances, takes too long to get it from the Reserve Bank of Zimbabwe.

4.3.5. The key informants commended the government on coming up with the national health levy with which it is funding Nat Pharm where hospitals get drugs. However, there were still concerns in their ability to provide all the drugs as there were challenges faced in relation to procurement of drugs due to foreign currency shortages, the Ministry stated that they require $21 million per month to procure medicines.

4.4. Human Resources

4.4.1. It was reported in all hospitals that there is critical human resources shortage due to brain drain, poor working conditions and non-upgrading of establishment. Practitioners that the ZHRC spoke to indicated that they are running on pre-independence establishment that have failed to take into consideration growth in population and hospitals themselves. All hospitals indicated a shortage of doctors, nurses and highly specialised departments such as radiography, lab technicians, x-ray and scan operators. As such, the health personnel are overworked and this together with their poor working conditions impacts on the quality of service delivery from such a workforce. It was also noted that it is not only the health professionals that are short staffed but other employees which also include general hands who contribute to the smooth running of a hospital.

4.4.2. It was also stated that replacing members of staff takes too long as hospitals first have to go through the Health Services Board and obtain Treasury Concurrence before they can employ. This puts pressure on the already overworked staff as they have to cover for the missing personnel. The freezing of

posts and late recruitment procedures have adversely affected the smooth running of the health sector.

4.4.3. It was also noted that there was also lack of recognition of some specialised fields within the health sector, for example if one is a Registered General Nurse (RGN) and they further studied midwifery there was no difference between the RGN and the one with an additional skill in terms of salary. This means that there is no incentive to stay within the government sector but rather seek alternative employment in the private sector where there is recognition of the additional acquired skill.

4.4.4. There were calls for the speedy amendment of the Health Professions Act 27:19 as it is outdated and is restrictive to the holding of posts such as District and Provincial Health Manager to doctors only. Concern is that there are other professionals such as nurses, pharmacists and environmental health technicians who are good administrators as required by such posts.

4.5. Free Treatment Policy Directive

4.5.1. In December 2017[13], the Government reaffirmed its commitment to providing free medical services to senior citizens, pregnant women, and children under the age of five and instructed public health institutions to remove all forms of payment for them. All personnel interviewed indicated that while the policy is good, it has to be backed by resource allocation especially in an already strained public health services sector. Stakeholders bemoaned rushed implementation of policies by the Government without feasibility studies having been conducted to assess the level of preparedness for such. The free treatment policy was said

[13] http://www.zimbabwesituation.com/news/free-medical-treatment-for-vulnerable-groups/ accessed on 19 April 2018.

to be crippling the already vulnerable health sector and the paying patients were the most affected in that they pay for services which they end up not getting as the income they bring is used to sustain the non-paying patients.

4.5.2. It was highlighted that there are patients who fall under the free treatment policy who have medical aid schemes but because of the policy they prefer not to use their medical aid. Patients who fall under this category and have medical aid are encouraged to use their medical aids as this will reduce the burden on the health sector. The Ministry of Health and Child Care is encouraged to consult and conduct feasibility studies and pilot projects whenever they intend to implement policies. It was recommended that hospital social workers should have been allowed to vet patients for free treatment as other patients who have medical aid are exerting pressure on the free treatment program.

4.6. Utility Bills and Service Equipment

4.6.1. The financial strain upon the public health sector has seen most hospitals struggle to pay water and electricity bills. Hospitals are charged for these utilities at commercial rate and are expected to finance these bills from the user fees collected which have dwindled particularly in light of the free treatment policy directive. In light of little government support, the purchase and servicing of laboratory equipment and ambulances has proven to be very difficult due to financial difficulties. Further, hospitals also have to feed their patients and a balanced diet is essential. This has become very difficult to do and ultimately impacts on the right to health care of their patients. In cases where a hospital has vehicles, they do not have resources to service and maintain them and in the cases of ambulances equip them with paramedic equipment.

4.7. Infrastructure

4.7.1. Infrastructure is key for hospitals as over the years since independence, Zimbabwe's population is growing, yet some hospitals have been upgraded to Central hospitals without the requisite infrastructure. In Matabeleland North, it was highlighted that there is a need for a Provincial Hospital as they are currently using St Luke's Mission in Lupane as one. In Matabeleland South, it was established that the current provincial structure was built in 1905 and there is need for rehabilitation as well as expansion as the hospital has resorted to the use of temporal structures to treat patients. It was also noted that the provincial hospital in Gwanda Matabeleland South, also doubles up as a district hospital.

4.7.2. There is a shortage of accommodation for health practitioners therefore there should be an effort by the government to find mechanisms which would ensure that there is adequate accommodation for staff. Some hospitals have had partners who have come in to assist with this but the ultimate responsibility to fulfil this right is the Government.

4.8 Health Service Board

4.8.1. The Health Service Board (herein referred to as the HSB) held a meeting with the Zimbabwe Human Rights Commission wherein they stated that there is inadequate funding to the health sector. It was highlighted that Government spends an unsustainable twenty four percent (24%) of its annual health budget on health expenditure, thereby compromising the determination of conditions of service for health professionals. The Health Service Board stated that they did have the authority to review conditions of services for healthcare professionals because such issues are handled by the Ministry of Health and Child Care (MoHCC) which administers the budget on their behalf. It was reported that the HSB superintends the MoHCC on service delivery and policy planning but does not have any power on the determination of resource allocation to itself. These challenges were said to be curtailing the HSB's monitoring and evaluation function on the MoHCC.

4.8.2. The HSB stated that the appointment of Hospital Management Boards is the prerogative of the Minister of Health and Child Care and where they are not constituted, it is difficult for them to exercise oversight over the provision of quality services. The meeting was informed that inadequate funding affects the provision of tools of trade and safety of health workers. It was particularly noted that infrastructure, general purpose vehicles and ambulances are in a deplorable state due to inadequate funding, and therefore compromises safety and productivity in the public health institutions.

4.8.3. It was recommended that the HSB should be reconstituted as a Commission so as to be allowed to provide oversight over policy formulation, planning, implementation and the setting of financial parameters for Hospital Boards. The current structure which sees all hospitals' resources being determined by the Accounting officer was said be a complex governance framework as it fails to place accountability where it should.

4.8.4. The Health Service Board stated that Zimbabwe pays 25% to 30% of the SADC payment structure hence the underpayment of workers and inadequate packages are a source of discontent and a cause of recurring strikes.

4.8.5. It was noted that the current collective bargaining agreement fixed on call and night duty allowances, but this has created problems for example in the case of senior doctors and nurses in Managerial positions who do not do calls. The effect was that junior staff who do call duties were getting higher salaries than their seniors. These are some of the issues the HSB is in the process of rationalising.

4.8.6. In addressing the challenges bedevilling the health sector, the HSB informed the meeting that is going to promote dialogue with its employees and has in its mid-term priorities a communication strategy for the engagement of health workers.

4.8.7. The HSB also alluded to having a scheme whereby the Ministry of Finance and Economic Development is funding a motor vehicle scheme for health workers which is being managed by the Central Mechanical and Equipment Department (CMED). A retention scheme funded by the Global Fund also saw critical posts in the public health sector being filled, but the challenge lies in sustainability since it is donor funded.

5. Conclusion

Section 76 (4) of the Constitution of Zimbabwe, states that the Government must take reasonable legislative and other measures, within the limits of the resources available to it, to achieve the progressive realisation of the right to basic health care. There has been limited commitment to the improvement of the health care system in the country. The continued budgetary allocation of less than 15% each year means that Zimbabwe will not meet the basic health care that every citizen and permanent resident is entitled to, curb the recurring strikes by the health care professionals and improve the infrastructure of the hospitals. The state of public hospitals is in a grave poor state and it is something that all relevant stakeholders in Government should aim to improve progressively with visible evidence.

The National Health Strategy for Zimbabwe (2016-2020) noted that '*Significant investments in health system strengthening are necessary for the health facilities and other service delivery and coordination platforms to function optimally. Business as usual will not lead to the desired twin outcomes of equity in access to services, and improved quality of services and indeed to "the highest possible level of health and quality of life for all Zimbabweans".'* [14] Therefore, the Government needs to step up to its health service mandate to ensure adequate health care services are provided.

6. Recommendations

Parliament of Zimbabwe

6.8. The Parliament of Zimbabwe should honour its commitment in terms of the Abuja Declaration by ensuring prioritisation of adequate and timely budgetary allocations for public health institutions (15% of the entire country budget should go to the health sector).

6.9. To assess the situation of Public Health institutions through the relevant Parliamentary Portfolio Committee/s to appreciate first-hand the challenges faced by both citizens/permanent residents and the health sector itself.

[14] https://www.unicef.org/zimbabwe/National_Health_Strategy_for_Zimbabwe_2016-2020_FINAL.pdf page 77

6.10. Parliament of Zimbabwe should advocate for the change of status from a Health Service Board to a Health Service Commission in light of the challenges currently being faced by the HSB especially in terms of access to resources.

Ministry of Health and Child Care

6.11. To improve the annual allocation provided to Provincial, Central and District Hospitals to ensure improved service delivery.

6.12. The Ministry of Health and Child Care should come up with progressive policies that improve the state of health institutions in Zimbabwe for example resources should be channelled towards preventive rather than curative measures.

6.13. When the Ministry decides to upgrade a hospital, it should do so with the adequate human and financial resources and infrastructure.

6.14. Revisit the Free Treatment Policy Directive to ensure that Government funds the policy and that only those without Medical Aid and other resources to pay are covered and provide for compensatory measures for institutions that provide free healthcare.

6.15. The Health Service Board should be allowed to manage hospital fees in order to aid in the efficient and timeous procurement of essential drugs and consumables.

Ministry of Health and Child Care and Ministry of Justice, Legal and Parliamentary Affairs

6.16. To expedite the amendment of the Health Professions Act (27:19). This should be done in a consultative manner so as to ensure that there is input from all relevant stakeholders within the health sector.

6.17. To improve conditions of service for healthcare professionals.

Health Service Board

6.18. The Health Service Board should continuously work at improving the working conditions of doctors, nurses and other hospital personnel as they also face health hazards when conducting their work.

6.19. The Health Service Board should take agitations of health care sector workers seriously.[15]

6.20. The Health Service Board review their recruitment policy to ensure that the time it takes to employ is minimised.

Ministry of Finance and Economic Development

6.21. Treasury should ensure that when budgetary allocations have been made to hospitals, such funds should be disbursed accordingly and timeously.

6.22. Treasury should review and improve financial conditions of all health professionals to ensure a non-recurrence of the yearly industrial action by these health professionals.

6.23. Treasury should ensure that they provide all hospitals with adequate human resources and in the event that vacancies arise within establishments these are filled in as soon as possible. The blanket freeze should not apply to the Ministry of Health and Child Care as this impact on the right to health which has a direct link to the right to life.

6.24. Treasury should increase allocation for maintenance and building of new infrastructure for hospitals in a progressive manner.

Reserve Bank of Zimbabwe

6.25. The Reserve Bank of Zimbabwe to prioritise the timeous disbursement of foreign currency for repair and acquisition of medical equipment.

6.26. The Reserve Bank of Zimbabwe should also increase their allocation of foreign currency to the Ministry of Health and Child Care, through National Pharmaceutical Company of Zimbabwe (Nat Pharm) to ensure that more medicines are procured.

[15] There are no justified reasons to have prolonged and protracted negotiations. The health care professionals that conduct a strike after attempts to negotiate and after given notice.

ANNEXURE 1

MINISTRY OF HEALTH AND CHILD CARE BUDGETARY ALLOCATIONS

Year	Allocation	Percentage of National Budget
2013	407 million dollars	10.00%
2014	337 million dollars	08.00%
2015	301 million dollars	06.30%
2016	330 million dollars	09.70%
2017	408 million dollars	08.16%

The budget in the table above has not yet complied with 15% budgetary allocation to health as prescribed by the Abuja Declaration.