



Republic of Zambia

**INITIAL REPORT ON THE IMPLEMENTATION
OF THE AFRICAN CHARTER ON THE
RIGHTS AND WELFARE OF THE CHILD**

REPORTING PERIOD: 2008 - 2017

ZAMBIA

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FOREWORD

The Government of the Republic of Zambia is pleased to present its initial State party Report to the African Union's Committee of Experts on the Rights and Welfare of the Child. This Report provides information on the measures that Zambia has adopted, since the ratification of the African Charter on the Rights and Welfare of the Child in 2008, which give effect to the provisions of the Charter and on the progress made in the enjoyment of the rights of children contained therein.

Zambia acknowledges that challenges remain in the fulfilment of the obligations contained in the Charter and has, therefore, put in place strategic and administrative systems to address the challenges. The foregoing notwithstanding, Zambia remains committed to the full implementation of the African Charter on the Rights and Welfare of the Child and other international, regional and sub-regional human rights instruments aimed at promoting the rights of children.



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LIST OF ACRONYMS/ABBREVIATIONS

ACC	Anti-Corruption Commission
APPB	Arrest and Prisoner's Property Book
ARH	Adolescent Reproductive Health
ARRS	Arrest, Reception and Referral Services
ART	Anti-Retroviral Therapy
CCUP	Child Care Upgrading Programme
CDC	Curriculum Development Centre
CHAZ	Churches Health Association of Zambia
CMR	Child Mortality Rate
CRC	Convention on the Rights of the Child
CSEN	Children with Special Needs
CSO	Central Statistical Office
CSOs	Civil Society Organisations
DEC	Drug Enforcement Commission
FAWEZA	Forum for African Women Educationists in Zambia
FBOs	Faith Based Organisations
FNDP	Fifth National Development Plan
FSP	Food Security Pack
GRZ	Government of the Republic of Zambia
HIV/AIDS	Human Immuno Virus/Acquired Immuno Deficiency Syndrome
HRC	Human Rights Commission
IMR	Infant Mortality Rate
MDGs	Millennium Development Goals
NCP	National Child Policy
NGOs	Non-Governmental Organisations
NPA	National Plan of Action
NYP	National Youth Policy
OCC	Office of the Commissioner for Children's Rights
PPCA	Police Public Complaints Authority
PWAS	Public Welfare Assistance Scheme
SCT	Social Cash Transfer
SGBV	Sexual and Gender Based Violence

SNDP	Sixth National Development Plan
STI	Sexually Transmitted Infections
UMR	Under Five Mortality Rate
UNICEF	United Nations Children’s Fund
UNDP	United Nations Development Programme
VCT	Voluntary Counseling and Testing
WHO	World Health Organisation
ZAMREN	Zambia Research and Education Network
ZAWA	Zambia Wildlife Authority
ZCEA	Zambia Civic Education Association
ZICTA	Zambia Information and Communications Technology Authority
ZLDC	Zambia Law Development Commission

CHAPTER I

INTRODUCTION

1. The State party wishes to inform the Committee that since the ratification of the African Charter on the Rights and Welfare of the Child (ACRWC) in 2008, the State party has taken legislative and administrative measures to ensure that it progressively domesticates the provisions of the Charter. This report is in response to the guidelines for initial reports of States Parties regarding the implementation of the ACRWC. The report also contains information on important developments that have taken place in the protection of the rights of children in Zambia.

2. The Committee is invited to note that the State party submitted to the United Nations Committee on the Rights of the Child a report based on the provisions of the Convention on the Rights of the Child (CRC) and was reviewed in 2016. Some elements of that report have been used in the preparation of this report.

3. The process of preparing the State party report on the implementation of the Convention on the Rights of the Child commenced with various consultative workshops that were held in order to ensure a participatory approach involving different stakeholders on the measures that had been put in place by the State to implement the provisions of the Convention. The Government of Zambia decided that children be consulted in the preparation of the report. In order to give an opportunity to the children to take part in the preparation of the State party report, Provincial Consultative Children's Workshops were subsequently held in all the ten provinces of Zambia. The workshops were made possible with the financial support from the United Nations Children's Fund (UNICEF) and information was collected in line with the reporting guidelines of the Convention.

4. The Children's Consultative Workshops were attended by 450 children between the ages of 9 to 18 from various parts of the country. In order to get representation of children from various backgrounds, committees were set up in all the provinces for the purpose of identifying and coordinating the movement of children to the venues of the workshops. Children with disabilities, orphans, children living on the street, children from government, community, reformatory and private schools and children from urban and rural areas were all represented at these workshops. The children's workshops were facilitated by the Ministry of Justice in partnership with the Zambia Civic Education Association (ZCEA). Facilitators were also invited from African Network for Prevention and Protection against Child Abuse and Neglect (ANPPCAN), Ministry of Community Development and Social Services, Ministry of Youth, Sport and Child Development, the Zambia Police Victim Support Unit (VSU), Youth Vision Zambia, Children in Need Network (CHIN), Roychin, Sport in Action, Young Women's Christian Association (YWCA) and Save the Children Sweden/USA.

5. This report is accompanied by principal legislation including reports, guidelines, policies and detailed statistical information related to specific subject issues. Where hard copies have not been provided, the State party has ensured that sufficient information has been provided.

6. This report is structured in line with thematic areas as contained in the African Charter on the Rights and Welfare of the Child. For each thematic areas, a separate section is dedicated to bring out information obtained from the children’s consultative workshops. The separate section for the views of children is meant to avoid clouding their critical views with the mainstream information provided by the State party.

7. The content of this report, therefore, reflects the contribution of key stakeholders with regard to how the country has performed in undertaking its obligations under the African Charter on the Rights and Welfare of the Child.

CHAPTER II

GENERAL MEASURES OF IMPLEMENTATION

8. Under this section, the report provides information pursuant to Article 1 of the Charter, in particular, the necessary steps and measures taken to promote and realise the rights and welfare of the children.

a) Constitutional provisions giving effect to the Children's Charter

9. The State party reports that the Constitution is the supreme law of Zambia and any other written law, customary law and customary practice that is inconsistent with its provisions is null and void to the extent of the inconsistency. Part III of the Constitution of Zambia provides for the Bill of Rights. Article 24, in particular, protects children's rights from all forms of exploitation. Article 24(3) protects children of being subject of traffic in any form. The State party amended its Constitution in 2016 (*Amendment No. 2 of 2016*). Notable in the provisions of the amended Constitution is the definition of the Child which has been aligned with the provisions of the CRC and the ACRWC. Further, Article 35(2) of the Constitution provides for the citizenship by birth of any child of not more than 8 years old whose nationality and parents are not known. In addition, the Constitution makes provision for the establishment of Family and Children's Court in Article 120(3)(b).

b) Measures taken to realise the Rights and Welfare of the Child

10. The State party reports that there have been significant developments during the period of reporting in relation to legislation and policies relevant to advancing the promotion and protection of the rights of children within its territory. Notable among recent legislation is the Anti-Gender Based Violence Act No. 1 of 2011, the Education Act No. 23 of 2011, the Persons with Disabilities Act No. 6 of 2012, the Anti-Human Trafficking Act No. 11 of 2008, the Gender Equity and Equality Act No. 22 of 2015 and the Amended Constitution of the Republic of Zambia No. 2 of 2016.

11. The *Anti-Gender Based Violence Act, inter alia*, provides for the establishment of shelters for victims of gender based violence. Particularly, section 27 provides that a shelter for child victims shall secure the physical safety of the child and provide for temporary basic material support for the care of a child victim. The Act includes 'child marriage' as a form of 'physical, mental, social or economic abuse'. A copy of the Act is attached for the Committee's further scrutiny.

12. The *Education Act*, among other provisions, seeks to domesticate the Charter in relation to education. It provides for the child's right to free basic education and a person's right to early childhood care, development and education. It prohibits the contraction of any form of marriage by a learner who is a child. The Act obligates the Minister responsible for education to ensure equal access to quality education to all learners including poor and vulnerable children. It prohibits the imposition of corporal punishment or degrading or inhuman treatment on a learner. A copy of the Act is attached for the Committee's further scrutiny.

13. The *Persons with Disabilities, Act* domesticates the United Nations Convention on the Rights of Persons with Disabilities. Section 4 of the Act provides for general principles that apply to both children and adults with disabilities. Section 4 further provides that the evolving capacities of children with disabilities and their rights should be respected in order to preserve their dignities. Section 21 provides that the national strategies shall incorporate measures which enable children with disabilities to be provided with information about services available and that early interventions such as early stimulation and education should be provided to such children as early as possible in order to prevent development disabilities. Section 21 further provides that children with disabilities should enjoy all human rights and freedoms on an equal basis with other children and have equal opportunities and equal access to education, health care, sports, recreation and all other services in the community. Section 30 of the Act makes it mandatory for the Ministry responsible for health, in collaboration with the Ministry responsible for social welfare, to provide for periodic screening of children in order to detect, prevent and manage disability. A copy of the Act is attached.

14. The *Anti-Human Trafficking Act*, among other things, provides for the prohibition, prevention and prosecution of human trafficking. It further provides for the filing of and dealing with matters related to human trafficking; establishes the Committee on Human Trafficking and provides for its powers and functions. The Act also provides for the establishment of centres and victims of human trafficking and the Human Trafficking Fund. Furthermore, it domesticates the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially women and children.

15. The *Gender Equity and Equality Act, inter alia*, Section 22(1) (d) and (e) provides for the best interests of the child to be considered in matters of marriage and family life where a woman, has, on an equal basis with a man, the right as a parent, irrespective of her marital status, in matters of children; and guardianship, wardship, trusteeship and adoption of children. A copy of the Act is attached.

16. Another piece of legislation with specific provisions for children is the *Liquor Licensing Act No.20 of 2011*. Section 35 of this Act provides, in part, that a licensee shall not employ a child in the licensed premises. Section 36 prohibits the sale or delivery of intoxicating liquor to a child. Further it is prohibited to knowingly allow a child to consume intoxicating liquor in any bar or allow any child to enter or remain in a bar. A copy of the Act is attached.

17. The State party reports that the process of strengthening all its child-related legislation is an ongoing exercise. To this effect the Zambia Law Development Commission (ZLDC), in conjunction with other stakeholders, conducted an audit and review of all child-related legislation. The following are some of the pieces of legislation considered during the audit:

- *Legitimacy Act, Chapter 52 of the Laws of Zambia*: The review focused on amending all the provisions in the Act which are not consistent with the principles of non-discrimination, best interests of the child and the rights of the child to express his or her opinions freely in all matters and to disseminate his or her opinions subject to such restrictions as are prescribed by law.

- *Affiliation and Maintenance of the Children Act, Chapter 64 of the Laws of Zambia:* This Act has been impliedly repealed in its application to maintenance and custody proceedings by the Matrimonial Causes Act No. 20 of 2007.
- *The Education Act, Chapter 134 of the Laws of Zambia:* The review focused on amending the Act so that it complies with international standards.
- *Adoption Act, Chapter 54 of the Laws of Zambia:* The discriminatory provisions were considered for review in this Act. Further, the review will aim at strengthening provisions relating to the best interests of the child in the Act.
- *Marriage Act, Chapter 50 of the Laws of Zambia:* In this Act the review considered the provision regulating the age below which marriage should not be contracted.
- *Matrimonial Causes Act, No. 20 of 2007:* The review considered discriminatory sections in the Act and strengthening of provisions that reflect the best interests of the child principle.
- *Births and Deaths Registration Act, Chapter 51 of the Laws of Zambia:* Provisions that relate to financial obstacles for late registration of births and centralised issuance of birth certificates were considered for revision in this Act. To this effect, the Births and Deaths Registration, Statutory Instrument No. 44 of 2016 is in place which provides for the decentralising of birth registration and issuance of birth certificates.
- *Intestate Succession Act, Chapter 59 of the Laws of Zambia:* The review considered the definition of the child in the Act to align it with the Children’s Charter and the Convention on the Rights of the Child.
- *Widows and Orphans Act, Chapter 279 of the Laws of Zambia:* The review aimed at revising the definition of the child in the Act because it is discriminatory.
- *Day Nurseries Act, Chapter 313 of the Laws of Zambia:* The review considered removing discriminatory words such as “illegitimate children” and other discriminatory clauses from this Act.
- *Employment of Young Persons and Children Act, Chapter 274 of the Laws of Zambia:* The review considered revising the definition of the child in the Act to align it with the Charter, the CRC and the ILO Convention concerning Minimum Age for Admission to Employment and the ILO Convention concerning the Prohibition and immediate Action for the Elimination of the Worst Form of Child Labour.
- *Juveniles Act, Chapter 53 of the Laws of Zambia:* The review considered revising the definition of the child and the administration of child justice.

- *Defence Act, Chapter 106 of the Laws of Zambia*: The review of this Act was focused on raising the voluntary enlistment age beyond the current age of 16 and the prohibition of forced or compulsory recruitment of children for use in armed conflict.
- *The Penal Code, Chapter 87 of the Laws of Zambia*: the review considered the legal age of criminal liability which at the moment is below the age of 8.
- *The Anti-Human Trafficking Act, 2008*: the review considered the improved protection of children who are victims of trafficking and alignment of the definition of the child to the Constitution and other international instruments
- *The Immigration and Deportation Act, 2010*: the review is being considered to align the definition of the child with the Constitution and protection of vulnerable child migrants and their repatriation.

18. The State party invites the Committee to note that some of the Acts which were under review have already been repealed and replaced with new Acts to ensure that they comply with international standards. The Education Act, Chapter 134 of the Laws of Zambia has been repealed and replaced with the Education Act No. 23 of 2011. The Day Nurseries Act, Chapter 313 of the Laws of Zambia has also been repealed. Some of the Acts under review may not be amended owing to the fact that they are not at variance with the principles of the Children's Charter and that some of them in fact do reflect those principles. As regards the adoption of a comprehensive Children's Code, the State party reports that although there is no single Children's Code, the principles of the Children's Charter are properly reflected in the relevant pieces of legislation which are under review.

19. The State party reports that it is currently drafting the Children's Code which will codify all laws relating to Children. The Children's Code will provide a mechanism to strengthening the Child Protection System through the repeal of principle statutes related to children in order to harmonize them into one codified legislation.

20. The objectives of the Children's Code Bill are as follows; reform and consolidate the law related to children, repeal several statutes related to children, provide for the establishment, functions and procedures of children's courts, establish diversion and alternative correctional programmes. Further, the Code intends to domesticate the CRC, the ACRWC and 1993 Hague Convention on Inter Country Adoption. The Children's Code Bill awaits presentation to Parliament in 2017.

National Development Plans

21. The State party wishes to reports that during the Fifth National Development Plan 2006 – 2010 (FNDP) period, the social sector recorded some significant progress towards meeting some of the performance targets such as the health centre utilization rate, immunization coverage, malaria case fatality rate, maternal and infant mortality rates, education enrolment rates and disbursement of funds to districts. Despite these achievements, the sector continued to face challenges which included a high disease burden, inadequate medical staff and weak logistics

management in the supply of drugs and medical supplies. In this regard, the SNDP focuses on overcoming these challenges in order to effectively provide promotion, preventive, curative and rehabilitative health services.

22. In the Revised Sixth National Development Plan (RSNDP), there is more focus on quality improvement in the education and health sectors for the whole population, including children. Attention will continue to be placed on teacher supply (recruitment, deployment and retention), provision of teaching and learning materials and infrastructure development. Additional focus has been placed on school level processes such as school governance, teacher supervision, quality assurance, teacher continuous professional development and pedagogical support so as to actively pursue an improvement in the quality of education delivery. Furthermore, the sector will seek to address the efficiency and effectiveness of education and skills development delivery through curriculum development, improved management and governance of institutions, community involvement, civil society and private sector engagement. The goal is to increase equitable access to quality education and skills training to enhance human capacity for sustainable national development. The RSNDP has also focused on making improvement in the area of water and sanitation this has seen the rehabilitation of water reticulation systems, rehabilitation of bore holes and the drilling of new ones country wide, this will result in improved access to water there by reducing incidences of water borne diseases and diarrhea diseases.

23. The State party reports that it has developed three development plans namely;

- (i) The Seventh National Development Plan;
- (ii) The National Plan of Action for Children; and
- (iii) The National Strategy on Ending Child Marriages.

24. The Seventh National Development Plan (2017-2021) has infrastructure development as its main thrust in various sectors such as education, water, sanitation and health. The State party reports that it has embraced the early childhood care, development and education as component of child development, this caters for children between 0 and 3 years since it is a critic stage in brain development. Further, the State party has also adopted the policy on Early Child Education (ECE) of 2014 targeting children between 0 to 6 years, which stage is critical for preparing children for school readiness. The Committee is invited to note that with the adoption of the Policy, there has been an increase in children accessing ECE services. The State party reports that there has been a significant increase in enrolments at primary school level in the last 10 years. Factors accounting for this are; more schools have been built, removal of school fees, adoption of free basic education. The improved infrastructure in these sectors has resulted in improved access to services by children. The National Plan of Action for Children is an implementation for the approved 2015 National Child Policy.

25. On the other hand, the State party wishes to report that the National Strategy on Ending Child Marriage was launched in November 2014. The main goal of this strategy is to reduce the

prevalence of child marriage in Zambia by 40 percent between the periods (2016-2021). Its main objectives are to:

- (i) strengthen Multi-sectoral responses to reduce children's vulnerability to marriage;
- (ii) facilitate development and review of policies and legislation in order to ensure consistent interpretation and application of children related interventions;
- (iii) facilitate change in prevailing negative attitudes, behaviour beliefs and practices in order to reduce the incident of child marriages;
- (iv) facilitate provision of child sensitive services in order to reduce children vulnerability to marriage; and
- (v) effectively mobilize financial resources in order to enable implementation of programmes aimed at reducing children's vulnerability to marriage.

c) Positive Cultural Values and Traditions

26. The State party reports that in order to promote positive, cultural values and traditions, it has created institutions to oversee the development, preservation and implementation of programmes at national level. The Constitution of Zambia has provided for the establishment of chieftaincy and traditional institutions and the participation of chiefs in public affairs including those affecting children (child marriage, birth registration, water and sanitation, child protection and general health services). Some key institutions have been created, namely, the House of Chiefs under Parliament, the Ministry responsible for Chiefs and Traditional Affairs, whose mandate includes administration of chief affairs folklore and preservation of oral traditions, indigenous knowledge, promotion of traditional crafts, registration of villages, research in culture and traditional ceremonies and the Ministry responsible for National Guidance and Religious Affairs, whose mandate is preservation of Christian and religions sites, inter denominational dialogue, promotion of national values, principles and ethics and public religious celebrations.

27. In addition, the State party has developed a number of social protection programs that are meant to promote and complement good and unifying Zambian traditions and positive cultural values. Such programmes include the Food Security, Social Cash Transfers, Women Empowerment Fund and the Public Welfare Assistance Schemes. Girls Education and Women Empowerment and Livelihoods (GEWEL).

d) Mechanisms for Coordinating Policies

28. The State party reports that coordination mechanisms have been established at national, provincial, and district levels for the management of national and sectoral plans. These plans will be managed on the principles of results based management whose emphasis is on the need for all players to account for development results and ensure timelines on the delivery of results. These coordination mechanisms bring together different stakeholders in the area of child development and welfare for efficient planning, resource mobilisation and leveraging, implementation and

monitoring of programmes related to child development at various levels. At ward level, there exist the Ward Development Coordinating Committees, at district level, there exists the District Development Coordinating Committee, at province level, the Provincial Development Coordination Committee and at National level, the National Coordination Committee.

29. Further, in order to encourage inter-sectorial synergy, the Sector Advisory Groups (SAGs) and the National Coordinating Committee for Children have been created to address issues related to child welfare and development whose mandate is to provide the framework for stakeholders to implement child development programmes through a multi-sectoral approach.

30. The State party is working on strengthening family welfare systems to ensure that children remain in families. To this effect, the National Alternative Care Working Group and Children in Families Working Group have been established.

Measures taken to raise awareness on the Children's Charter

a) Measures taken to make the principles and provisions of the Children's Charter widely known to adults and children

31. The State party, in collaboration with the civil society organizations, has been raising awareness on the principles and provisions of the Charter in particular to children. The State party has been popularizing the Charter by simplifying and translating into seven (7) local languages and distributed nationwide. Further, plans are underway to translate the Charter into brail in order to ensure access to information by the blind and visually impaired children and adults. In addition, children's clubs have established in selected schools to facilitate information sharing by children using peer to peer learning model. The Charter's principles and provisions have been incorporated in the civic education school curriculum. However, the State party reports that it faces a number of challenges in ensuring that the principles and provisions of the Children's Charter are widely disseminated. One major challenge that the State party faces is inadequate funds to raise awareness about children's rights and responsibilities in the rural parts of the country.

b) Measures taken to widely disseminate the report to the Public

32. The State party reports that this is the initial report that it is submitting and that once the Committee makes its concluding observations on the report, the State party will endeavor to disseminate the report to the public through print and electronic media, public dissemination meetings, workshops, discussions, school debates and other public fora such as traditional cultural ceremonies, national and international mark days.

Views of Children on General Measures of Implementation

33. It was evident from the Children's Consultative Workshops that children had a fair knowledge of their basic rights despite not knowing where to report when these rights are violated. Children from urban areas were more conversant with their rights than those from rural areas. The following were some of their views:

- i. *Involvement in Budget Process:* On the budget, the children stated that they were not involved in any budgeting process at the family, school, community, constituency and national levels. They, however, felt that they should be involved in budgeting processes as this presented good training ground for them. Some children, however, believed that it was not necessary to be involved because that was the responsibility of adults or parents.
- ii. *Protective Factors (What Makes Life Good for Children in Zambia):* The general view of children on protective factors was that Zambia was a peaceful nation and that this contributed to making life good for the children regardless of their social or economic status. They also stated that free basic education made life good for the children and that it provided them with an opportunity to read and write. Parental care was also identified as a factor that made life good for the children. They were of the view that parental love and support contributed to the feeling of safety experienced by all the children.
- iii. *Risk Factors (What Makes Life Difficult for Children in Zambia):* The children stated that lack of proper health care in some areas made life difficult for them. It was noted by the children that although health centres existed in all the areas, services by health professionals were not usually child friendly. In most cases, clinics were only able to give prescriptions due to inadequate medicines. Another risk factor brought out by the children was the loss of one or both parents. This resulted in children being removed from their home environment to live with relatives, thereby, increasing the risk of being abused. Lack of clean water and poor sanitation was another factor mentioned by the children. Most children in the rural areas said they had to walk long distances to fetch water, the majority from urban areas said they woke up as early as 05:00 hours to access clean drinking water. This not only made the children tired but also reduced their time to study or play.

CHAPTER III

DEFINITION OF THE CHILD

34. The State party wishes to report that it complies with the provision of Article 2 of the Children's Charter regarding the definition of a child. Article 266 of the Constitution of Zambia (*Amendment No. 2 of 2016*) provides for the definition of the child. To ensure that other laws comply with the provisions of the Constitution, the State party is reviewing all child related laws and currently has in place a Children Code Bill. Other laws that also seek to align the definition of the child to that of the Charter are the Anti-Human Trafficking Act and the Immigration and Deportation Act, 2010. The Committee may wish to note that this process has already started, for example, section 2 of the Gender Equity and Equality Act and Persons with Disability Act defines a child as a person who is below the age of 18 years. Other national documents such as the National Child Policy, the Minimum Standards of Care for Child Care Facilities and the Orphans and Vulnerable Children (OVCs) Standards comply with the definition of a child in the Charter.

Views of the Children on the Definition of Child

35. The children understood a child to be a person below the age of 18 years.
- i. *Age for School:* The children from urban areas were of the view that a child should start school at the age of 5 years while those from rural areas said 7 years was the appropriate age. Some of the children stated that the appropriate age for completion of secondary school was 17 or 18 years, while others were of the view that there should be no age limit with regard to completion of secondary school.
 - ii. *Age for Sexual Consent:* The children thought that 18 years was the appropriate age for sexual consent.
 - iii. *Age for Employment:* On the age for employment, the children's views varied between the ages of 16 and 25 years.
 - iv. *Age for Voting:* The majority of the children stated that the age for voting should be 16 years as this is the age at which children got their National Registration Cards (NRC).
 - v. *Age for Criminal Responsibility:* The opinion of the children on the age for criminal responsibility was that it should be set at 16 years because at that age a child was able to reason.
 - vi. *Age for Marriage:* There were different views from the children on the exact age at which a person should get married. The views of the children on the minimum age for marriage varied from the age of 18 to 28 years. Some of the children from Luapula Province, however, indicated that children as young as 12 years had been forced into early marriages.

- vii. *Age for Alcohol Consumption:* The children were of the view that the legal age for alcohol consumption should be increased to 20 years.

CHAPTER IV

GENERAL PRINCIPLES

36. Under this section, the report provides information on the principal legislative, judicial, administrative and measures in force or foreseen; factors and difficulties encountered and progress achieved in implementing the relevant provisions of the Children's Charter and implementation priorities, as well as specific goals for the future.

a) Non Discrimination (Articles 3 and 26)

37. The State party wishes to state that its laws and policies support the equality of all persons, including children. Children belonging to the most vulnerable groups, such as girls, children with disabilities, orphans, disadvantaged children and children born out of wedlock are entitled to the enjoyment of the same rights guaranteed in the Bill of Rights of the Constitution of Zambia. Article 23(1) and (2) prohibit discrimination either by law or person. The Committee may wish to note that the National Child Policy 2015 and the Persons with Disability Act No. 6 of 2012 are premised on the principle of Non-Discrimination.

38. The State party further reports that it has prioritised institutional and legal reforms for the effective implementation of social protection measures in the National Development Plans including the current Seventh National Development Plan. The focus of the reforms include:

- i. the needs of disadvantaged women and children;
- ii. development of a comprehensive social security system which included informal sector workers;
- iii. enhancement of child survival, development and protection interventions and support for and protection of orphans and vulnerable children through the review of child legislation; and
- iv. enhancement of legislative and policy measures to protect children from various forms of discrimination.

b) Best interest of the Child (Article 4)

39. The laws and policies in Zambia uphold the best interests of the child which are reflected in several provisions, notably the Juveniles Act Chapter 53 of the Laws of Zambia, the Adoption Act Chapter 54 of the Laws of Zambia, the Penal Code Amendment Act No. 15 of 2005 of the Laws of Zambia, the Affiliation and Maintenance of Children Act Chapter 64 of the Laws of Zambia and the Matrimonial Causes Act Chapter No. 20 of 2007. Some policies that reflect the principle of best interests of the child are the National Child Policy, National Health Policy and National Policy on Disability. The review of laws and policies relating to children seeks to reflect this principle where it is considered cardinal to the enhancement of child protection systems. The State party also reports that it considers the best interests of the child to be

paramount in all administrative matters concerning children such as access to justice, issues of child placement, foster care, adoption, child custody, social protection, child health and education. Further, the best interests' determination is applied for assessment for child asylum seekers, refugees and irregular migrants.

40. The State party, in collaboration with the civil society, has been sensitizing stakeholders on various legal issues including the principle of best interests of the child. The State party engaged some traditional leaders at grass root level and members of the House of Chiefs. The traditional leaders have demonstrated that they have appreciated the need to uphold the best interests of the child and apply the concept when dealing with issues of children in the application of customary law in their areas. In addition, the State party is concerned with the minimum age for marriage under customary law. For instance, girls are married as soon as they attained puberty, which in some cases is as early as 9 years of age while boys are married at a slightly older age ranging from 17 to 20 years. To ensure that customary law does not impede the principle of best interests of the child, the State party reports that the process of reviewing child-related legislation has conducted awareness raising activities with traditional leaders at community level and that the administrative structures have been involved in the information dissemination phase. This phase has been focused on sharing the content of the law and highlighting certain provisions that are imperative for day-to-day administrative functions.

41. The State party intends to continue to engage traditional leaders to ensure that the best interests of the child are taken into consideration at community level. Local Court Magistrates who administer customary law and Provincial Administration have also with the help of cooperating partners been engaged and trained in the promotion of the best interests of the child. Customary law on the whole has demonstrated a shift towards upholding the best interests of the child, but it is conceded that more needs to be done.

42. The State party reports that the administration of child justice takes into consideration the best interests of the child when dealing with children in contact with the law. In this regard, part of the law review seeks to look at alternatives for children in conflict with the law. So far, the national framework on Diversion has been developed as a tool to ensure that children do not go through the formal rigid judicial process, as much as possible. Further, the State party, has ensured that it is prioritising the issuance of bail bond to lessen detention as a way of upholding the best interests of the child.

c) The Right to Life, Survival and Development (Article 5)

43. The State party has taken effective measures in implementing and protecting the rights of the child with regard to the right to life, survival and development.

44. Article 12 of the State party's Constitution, protects the right to life, with Article 12(2) specifically protecting life of the unborn child. The State Party reports that it has in place the Termination of Pregnancy Act, Chapter 304 of the Laws of Zambia, which protects the unborn child from losing its life unless under specific circumstances such as the viability of the pregnancy itself or the danger to the life of the mother.

45. The State party wishes to also report that one of the strategic priorities in the *National Plan of Action of 2017 to 2021* is to engage the multi-sectoral community to play an active role in supporting the survival, protection and development of children. In this regard, the State party sought to strengthen partnerships at all levels with a view to obtaining financial and technical support. Further, arising from the implementation of the policies that have been put in place, the following achievements have been realized:

- Child mortality has reduced from 119 (2007 Zambia Demographic and Health Survey (ZDHS)) to 75 (2013-14 ZDHS) per 1000 births;
- The nutrition status of children under age five has declined from 53 percent (2001-02 ZDHS) to 40 percent (2013-14 ZDHS). There has been slight rise in the proportion of children who are wasted over the past six years, from 5 percent in 2007 to 6 percent in 2013-14. There has been no changes in the proportion of underweight children between 2007 and 2013-14 with 15 percent in both surveys;
- There has been a notable increase in the percentage of households with an improved source of drinking water from 24 percent in 2007 and 65 percent in 2013-14 (ZDHS). There has an increase in the number of households with access improved sanitation from 24 percent in 2007 to 25 percent in 2013-14 (ZDHS); and
- The immunization of children stands at 68 percent and this has not changed since 2007 to 2013-14 ZDHS.

46. On Child Development, the State party has introduced the Early Child Education (ECE) Policy of 2014 which has increased access and facilities for early childhood education for children below the school going age, and promoting positive parenting skills.

d) Respect for the views of the Child (Article 7)

47. The State party reports that in all matters concerning children, depending on the evolving capacity of the child, the views of the children are taken into consideration. For instance, children's views are encouraged and heard in judicial proceedings, family integration processes and other administrative decisions concerning child welfare. However, the State party is concerned with certain traditional practices which do not recognise the views of the child as some customs do not allow children to speak back to elders. The Committee may wish to note that every effort is being made to increase public awareness to ensure that the children are allowed to express themselves and their views are respected. In this regard, the State party has, through the relevant Ministries, been implementing a community mobilisation and awareness programme, targeting traditional leaders, civic leaders, religious leaders and parents. This programme is aimed at sensitising local communities on the rights of children, and to mobilise financial and human resources to provide a voice and platform for children. Further, community radio stations are being assisted with finances to disseminate information on the Children's Charter using local languages.

e) Provisions of information to Children and promotion of their participation (Article 4, 7 and 12)

48. The State party reports that since ratifying the Charter, it has taken practical steps to deal with factors that hinder participation of children in matters affecting their social, economic, religious, cultural and political rights. To ensure the full implementation of Articles, 4, 7 and 12 of the Charter and to increase child participation in governance and decision making, a number of programmes have been initiated. Among these initiatives are; formation of media and press clubs in schools, formation of child friendly platforms in communities, sensitization and mobilisation of communities on child participation, schools council which provide platforms for children to participation in governance. The principle of child participation is one of the key pillars in the National Child Policy, as such institutions that deal with children are required to observe this principle whenever they are developing and implementing programmes for children. The State party reports that leisure, recreation, sports and culture play an important role in the mental, physical and social development of a child, to this effect the State party has developed and rehabilitated amenities such a play parks, reading and recreation centers.

Views of Children on the General Principles

49. The children in the consultative workshops expressed the following views on the general principles of the Convention:

- i. *Non-discrimination:* The children stated that discrimination existed on the grounds of gender, ethnicity, language, disability, religion and other status. Some children stated that they had been discriminated against on the grounds of gender, social status and disability. The children cited children with disabilities who are hidden by the parents in the homes and isolated in schools as examples of the discrimination that was taking place.
- ii. *Best Interests of the Child:* The children were of the view that the best interests of the child are taken into account in court proceedings by the Social Welfare Officers, in family settings by the parents and at community level by the elders.
- iii. *Respect for the Views of the Child:* The children mentioned that their views were more respected at school than at home. The children stated that parents do not listen to their views. They stated that they were heard by parents only in certain instances such as when they were asking for money to meet their needs. The children with hearing and speech impairment indicated that their views were not heard due to difficulties in communication. The children stated that they are not consulted at national level and that it is the parents who are consulted on behalf of the children. The children also mentioned that their views were only heard during national events such as Youth Day and Independence Day. The children also felt that they were not given an option to choose which parent they would like to stay with when the marriage was dissolved. However, some of the children felt it was better for the court not to ask for fear of hurting their parents. For example, in Mansa, Luapula Province, when children were asked how many would like to be consulted by the courts of law

on which parent they would like to live with, 17 out of 20 children interviewed were for the idea of being asked while only three said they would not like to be asked to choose.

- iv. *Right to Life, Survival and Development:* Children from the rural parts of the country said they had no access to adequate food. They stated that they rarely had three meals in a day. With regard to access to clothing, children from urban areas felt that they had adequate clothes whilst those from the rural areas said they had few clothes. The children said hospitals and clinics were not easily accessible due to distance and this made it difficult to access health facilities.

CHAPTER V

CIVIL RIGHTS AND FREEDOMS

50. The State party's constitutional and statutory guarantees aim to protect children's civil rights and freedoms. The Constitutional Bill of Rights guarantees children their freedoms and rights according to evolving capacities. As with the Children's Charter, the Constitution provides for freedom of expression, freedom of thought, conscience and religion, freedom of peaceful assembly and protection of privacy.

a) Name, Nationality, Identity and Registration at Birth (Article 6)

51. The State party reports that it is committed to promoting birth registration in the country and that measures have been put in place to promote registration. The Government, with the support from cooperating partners, has put in place a National Strategy Action Plan (5 year plan) to improve the Civil Registration and Vital Statistics. The Birth registration procedures are free. However, Zambia still experiences low coverage of birth registration which presents critical vulnerability for children. Birth registration is the foundation for safeguarding many of the child's civil, political, economic, social and cultural rights. In Zambia, only 17 percent of the population 0-17 years old has a birth certificate. This document is unknown by many families that do not have the incentive to obtain one. Overall, fewer than 20 percent of births are registered in Zambia, with poor and rural children having the lowest likelihood of a registered birth.

52. In line with the National Action Plan on CRVS (2015-19), the Ministry of Home Affairs is working on boosting birth registration by decentralizing the services to health facility. To this effect, birth registration desks have been established in 222 health facilities in six (6) provinces. In these communities parents access birth registration services for their children as part of a "health package" at birth or during their visits to a health facility for services such as immunization. The Goal is to reach at least 50 percent of the 2000 health care facilities by year 2020.

53. The Births and Deaths Registration, Statutory Instrument No. 44 of 2016 provides for the certification of a birth at district level. Some measures put in place are:

- i. mount national wide awareness campaigns among the citizens on the importance of birth registration;
- ii. creation of sectoral platform for stakeholders involved in national registration such as the involvement of traditional leaders and midwives in birth registration of children;
- iii. capacity development of the Department of National Registration, Passport and Citizenship through training and provision of computers and transport; and
- iv. decentralisation of the issuance of birth certificates.

54. The State party further reports that the Department of National Registration, Passport and Citizenship under the Ministry of Home Affairs which is charged with birth registration, has redesigned its business processes in order to improve service delivery. To this end an Integrated National Registration System has been developed under the support of the Electoral Cycle in Zambia. Birth registration is one of the key sub-systems that has been developed and feeds into the integrated National Registration System. This sub-system is designed to link with the Ministry of Health for documentation of births. With the integrated system that has been developed, rural registration has been enhanced as officers will be collecting this information on a regular basis to update the main system. More officers have been recruited to improve staffing levels in the district and an officer in each district has been assigned to deal with rural registration.

b) Freedom of Expression (Article 7)

55. The State party reports that it is committed to promoting the freedom of expression of the child and this is evident in various legislative measures which require the opinion of children in matters concerning them such as:

- The *Constitution of Zambia* recognises the freedom of expression, which is guaranteed for all citizens regardless of age (Article 20).
- The *Adoption Act, Chapter 54 of the Laws of Zambia* provides that in certain cases where the child is able to, it is required that the child should express his/her opinion before an Adoption Order is granted.
- The *Education Act, 2011 of the Laws of Zambia* recognises the need to consult learners and permit them to participate in the administration of the school through the learners' representatives' council.
- The *Juveniles Act, Chapter 53 of the Laws of Zambia* recognises that during child friendly Court, the child is given an opportunity to express his/her opinion on matters in the case.
- The *Matrimonial Causes Act, 2007 of the Laws of Zambia* provides that where a child is in custody proceedings, inter alia is given the opportunity to express his/her opinion on where he/she wants to be before an Order is made.

56. In administrative procedures, it is noted that the opinions of children are sought more and more. An example being the consultations of the present State party report. Further, children are encouraged to express themselves through radio and television programs specifically created for them. The State party reports that it commemorates a number of mark days such as the International Children's Day of Broadcasting, the Day of the African Child, International Day of the Girl Child, the International Day against Child Labour and the International Day of the Street Child. In all these commemorations, child participation are encouraged.

57. There are challenges however that are faced and which were highlighted by the children regarding this freedom. This mostly arose from the traditional setting of a family where children are required to be “seen not heard” and therefore children are not included or consulted in decision making that affect them. This challenge was mostly faced in the rural setting as urban areas increasingly encourage expression by children and often consult and discuss matters affecting them openly.

c) Freedom of thought, Conscience and Religion (Article 9)

58. The State party reports that the main legislative provision that covers this is Article 21 of the Constitution of Zambia. The State party further reports that the protection of this freedom was illustrated by the landmark judicial decision in *Feliya Kachasu v Attorney General 1967 ZR 145* where the Court held that requiring a student to salute the national flag and sing the national anthem was a hindrance on the enjoyment of her right to freedom of conscience and religion as she was prevented from saluting or singing on account of her faith.

d) Freedom of Association and Peaceful Assembly (Article 8)

59. The State party reports that the main legislative provision that covers Freedom of Association is Article 21 of the Constitution of Zambia. The State party reports that administratively, there are a number of clubs that aim to provide a platform for children to exercise their freedom of association and peaceful assembly. Some examples include Child Rights Clubs, Sports and Recreation Clubs, Zambia Model United Nations and HIV/AIDS Clubs. There are deliberate measures to encourage freedom of association in all settings during socialisation.

e) Freedom of Privacy (Article 10)

60. The State party reports that the main legislative provisions that safeguards the freedom of privacy is Article 17 of the Constitution of Zambia. This Article ensures that all persons, including children are protected from any violation of their privacy. Administratively, the National Child Policy provides guidance to duty bearers to respect children’s right to privacy in the process of providing services and care to children. Further, the Minimum Standards of Care for Child Care Facilities ensures that all children in Child Care Facilities have a right to reasonable privacy and possession of personal belonging. In addition, it also stipulates that girls and boys bedrooms and bathrooms should be separate.

f) Protection against Child Abuse and Torture

61. The State party wishes to report that it has in place institutions that ensure the protection from abuse and torture of all children in accordance with existing relevant legislation. These institutions include the Office of the Commissioner for Children under the Human Rights Commission, the Department of Social Welfare in the Ministry of Community Development and Social Services, the Child Protection Unit and Victim Support Unit in the Community Services Directorate of the Zambia Police. Further, appropriate legislation has been enacted to protect children from abuse and torture such as the Constitution, the Penal Code, Anti-Gender Based

Violence Act, the Anti-Human Trafficking Act, the Gender Equity and Equality Act, the Juveniles Act.

62. The State party has also undertaken capacity building and sensitisation of personnel involved in the administration of child justice. The law enforcement officers and personnel in the Judiciary, the Department of Social Welfare and Civil Society have been trained and sensitised on rights based approaches to child protection. The State party is in the process of developing a training curriculum for law enforcement officers to include human rights and children's rights, in particular. In order to enhance coordination and collaboration amongst the various stakeholders in the administration of child justice, the Child Justice Forum under the Judiciary was established in 2003.

63. The Committee may wish to note that the State party has undertaken studies to generate evidence based information. Among the studies undertaken are the Health and Wellbeing of Children (Violence against Children), Nationwide Assessment of Child Care Facilities and Child Marriage, the Research Findings have been used to inform policy, decision making and sustainable planning.

64. The Committee may also wish to note that important legislative developments have taken place with regard to the protection of children against corporal punishment. In 2003, sections 14 and 330 of the Criminal Procedure Code were amended to outlaw corporal punishment in Zambia. The amendment was done through the enactment of the Criminal Procedure Code (Amendment) Act No. 9 of 2003, which repealed provisions relating to the administration of corporal punishment. Further, sections 24(c), 27, 36(c), 39 and 40(1) of the Penal Code, which prescribed corporal punishment as a form of punishment, were repealed through the enactment of Penal Code (Amendment) No.10 of 2003. Additionally, the enactment of amendment No. 16 of 2004 of the Prisons Act repeals the provisions that relate to corporal punishment. To ensure the protection of children from abuse in all settings including homes, the State party has amended the Penal Code (Amendment No. 15 of 2005) to prohibit assault or battering of a child, the offence carries a mandatory sentence of not less than five years and no exceeding ten years.

65. The State party further reports that it has prohibited corporal punishment in schools. Section 28 of the Education Act No. 23 of 2011 prohibits the imposition or administration of corporal punishment or degrading or inhuman treatment on a learner. Further, government departments, the Human Rights Commission, civil society organisations and other relevant stakeholders conduct activities to sensitize members of the public on positive discipline and alternatives to corporal punishment.

Views of the Children on Civil Rights and Freedoms

66. With regard to civil rights and freedoms, the children consulted in the workshops held the following views:

- i. *Right to a Name:* The children stated that they had a right to a name and that they had the right to a good name.

- ii. *Birth Registration:* With regard to birth registration, the children stated that they had no knowledge of whether or not they had birth certificates to show that they were registered after birth and they were only aware of the Under Five Clinic Record Cards.
- iii. *Freedom of Thought, Conscience and Religion:* The children were of the view that they did not have a say in the religion they practiced. In Ndola, Copperbelt Province, 80 percent of the children that were interviewed expressed the view that a child should choose his or her religion freely and 20 percent said they were comfortable with the religion introduced to them by their parents.
- iv. *Children's Access to Information and the Role of the Mass Media:* The children were of the view that they were enjoying the right to information. However, they said access to information should be monitored and regulated to ensure that they were getting the right information.
- v. *Freedom of Association:* On freedom of association, the children stated that they had a right to belong to any group they wanted and that they enjoyed this right.
- vi. *Right to Privacy:* The children stated that they had no privacy at home.
- vii. *Places of Safety:* In regard to places of safety, the children stated that they felt safest at church, at home when parents were present and at school when teachers were present.

CHAPTER VI

FAMILY ENVIRONMENT AND ALTERNATIVE CARE

67. The State party wishes to inform the Committee that the primary responsibility for care and giving guidance to children remains that of the parents and society at large. However, it is also the responsibility of the State to care for children where the parents are unable to do so. The Constitution of Zambia commits to uphold the values related to the family, morality and patriotism. The Constitution recognises the customary law, multi-ethnicity, multi-racial and multi-cultural groupings of the Zambian population. Traditionally, the family is the smallest and most important unit of the society. As such, the State party has endeavoured to create an enabling environment where children can grow up in families.

68. The State party wishes to report that it has various pieces of legislation that ensures the wellbeing of the child in the family. These are the Affiliation and Maintenance Act, the Adoption Act, the Juveniles Act and the Persons with Disabilities Act. These Statutes prevent parents and guardians from neglecting their children. This ensures that children grow up in a family environment.

a) Parental Guidance (Article 20)

69. The State party wishes to inform the Committee that the moral aspect of bringing up a child as a responsible citizen rests on the parents. However, where the child cannot grow up in the family, the law provides for guardianship, foster care and adoption to ensure that the child receives proper guidance during socialisation. Both under customary and statutory law, any person responsible for the wellbeing of the child has got a duty to provide due guidance to the child. For instance, section 22(1) of the Juveniles Act provides that the person to whose care the child is committed has the same rights and powers and be subject to the same liabilities in respect of his maintenance as if he were the parent of the child. Further, in case of family separation (divorce) child custody orders are given on the basis of parental moral standing and their ability to take care and give guidance to the child.

b) Parental Responsibilities (Article 20.1)

70. The State Party acknowledges that the primary duty bearer to the child is the parent. The law puts the duty on a parent to provide for the basic needs of children (section 168 and 169 of the Penal Code, Chapter 87 of the Laws of Zambia). The relevant Act requires that parents and guardians should be responsible for their children and those who abrogate the law will face punishment for failing to provide for their children's needs. The Juveniles Act empowers the Department for Social Welfare to remove the child from where it is found that the parent or guardian is unfit to exercise care and guardianship or not exercising proper care or exposing the child to moral or physical danger.

71. The National Child Policy states that the role of parents are to provide care and support to children, protect children from all forms of violence and abuse including harmful cultural and traditional practices, participate in community programs that promote the welfare of children.

However, to ensure that the child remains in the family, the State party endeavors to assist vulnerable families to meet their responsibilities towards the child through a number of programs such as Social Cash Transfer which has been scaled up to all the 109 districts in all 10 provinces of the State party targeting 590,000 households. The State party has since launched the National Social Protection Policy to provide guidance on the implementation of basic social protection programmes countrywide especially for children and the Social Protection Bill is yet to be presented before parliament.

c) Separation from parents, separation caused by State Party, Separation caused by Internal Displacement arising from Armed Conflict (Article 19.2&3)

72. The State party reports that it has put a number of measures in place to ensure the protection of children who are separated from their parents in one way or another. It is a macro responsibility of the State party to take care of the children separated from their parents due to orphan hood, incarceration, health issues, children in contact with the law, migration and natural disasters such as floods as children in need of care.

73. For children who come into conflict with the law, the State party is reducing the burden of separating these children from their parents by promoting community based rehabilitation and reintegration programmes such as community services, diversion programs, mediation and strengthening after care services. For nursing mothers who are incarcerated, the law provides for the infant not to be separated from the mother to facilitate bonding, (section 56 of the Prisons Act, Chapter 97 of the Laws of Zambia).

74. The State party wishes to inform the Committee that Zambia is a home to a number of child migrants. The Juvenile Act provides for the placement of displaced children in child care institutions and has therefore continued to support the provision of care to children separated from their parents through child care institutions country wide. In addition the State party traces parents of displaced children with a view to reintegration, and also provide psycho-social counselling, repatriation and empowerment to families who have been separated. In this regard, the State party supervises 170 child care facilities providing accommodation to 6413 displaced children.

d) Family Reunification and Children Deprived of a Family Environment (Article 25.2(b))

75. The State party reports that it launched the Minimum Standards of Care for Child Care Facilities to give directions to institutions providing care services for children. The State party is facilitating trainings for all relevant stakeholders in the Minimum Standards of Care as well the Alternative Care Guidelines to ensure improved service delivery on all child care programmes.

76. The State party has facilitated residential child care services to about 6,413 children. The State party also encourages kinship care within families whilst other vulnerable children are taken to places of safety. The State party has also in place structures that facilitate the provision of care and support to all vulnerable persons including children. These include the DWACs and the District Child Protection Committee.

e) Maintenance of the Child (Article 18.3)

77. The State party reports that the Penal Code, the Matrimonial Causes Act, Juveniles Act and the Affiliation and Maintenance Act place legal obligations on parents and guardians to maintain their children. Section 169 of the Penal Code provides for punishment of a parent or guardian who wilfully neglects to provide food, clothing, beddings or other necessities to a child who is under their care. On conviction, the parent or guardian will be liable to a fine or to imprisonment for a term not exceeding three (3) years or both. Failure to make maintenance payments according to the instructions of a maintenance order is contempt of court and is an offence and defaulters shall be liable to a fine, imprisonment for a term not exceeding six months or both. The Anti-Gender Based Violence Act further prohibits all forms of abuse of children in homes, schools and Child Care Institutions.

78. The State party has in place alternative care programmes that address the plight of children in difficult circumstances. These alternative care programmes are implemented through adoption, foster care and reintegration services. In order to ensure coordination among the various stakeholders, an alternative care technical working group has been set up. The State party has a number of interventions that ensure that children grow up in families and are empowered. These interventions include the GEWEL programme (Keeping Girls in School), the Social Cash Transfer, rehabilitation and reintegration of street children, Women Empowerment Programmes, Farmer Input Support Programme. All these interventions are aimed at assisting children from incapacitated households.

f) Adoption and Periodic Review of Placement (Article 24)

79. The State party reports that it acceded to the Hague Convention on the Protection of Children and Cooperation in Respect of Inter-Country Adoption of 1993 on 11th June, 2015 so as to ensure safeguards and protection of children in international adoption and also to conform to international instruments and the best interests of the child.

80. All relevant stakeholders in the adoption process have been sensitized and trained on the Alternative Care Guidelines. However, adoption procedures have continued to be facilitated in accordance with the Adoption Act as the State party is in the process of putting in place all measures that will conform to the Convention.

81. The State party wishes to report that Alternative Care Guidelines that include the adoption process in line with the Inter-Country Adoption Convention are in place and will be launched.

g) Abuse, Neglect, Exploitation including Physical and Psychological Recovery and Social Integration (Article 16 and 27)

82. The State party reports that it has laws in place that protect children from all forms of abuse, neglect and exploitation. The Constitution of Zambia provides for the protection to children in its territory against physical, mental, sexual and all forms of neglect, cruelty or exploitation (Article 24 of the Constitution). The Penal Code of the State party is the main law

on the protection of children on abuse. It criminalises physical, sexual, mental, economic and social cultural abuse. Other legislations that are influential in the fight against child abuse are the Anti-Gender Based violence Act, the Anti-Human Trafficking Act, the Gender Equity and Equality Act and the Education Act.

83. The State party wishes to also report that it has institutions in place that offer protection against abuse to all children without discrimination. Some of the institutions that protect children from abuse are the Victim Support Unit and Child Protection Unit of the Zambia Police Service, the Department of Social Welfare and Ministries like Ministry of Health, Ministry of Youth, Sport and Child Development and Ministry of Education.

84. The State party further reports that it has laws in place that make provision for the physical recovery of children who are victims of abuse. Section 8(4) of the Anti-Gender Based Violence Act provides for free examination, treatment and signing of a medical report within a reasonable period of time. Further, the Act mandates the police to issue a medical report form to a victim of abuse where necessary to enable them receive treatment. Furthermore, the law compels the police to escort the victim to the hospital. All these provisions are aimed at facilitating the physical recovery of the victim of abuse.

85. With regard to the psychological recovery of the victim of abuse, the State party reports that it offers counselling services to victims of abuse. Service providers such as the Victim Support Unit and Child Protection Unit of the Zambia Police, Department of Social Welfare under the Ministry of Community Development and Social Services, the Ministry of Gender and all One Stop Centres nationwide offer counselling to victims who report any abuse.

86. The State party reports that it has laws that encourage reintegration of the victims of abuse. Further, the State party wishes to report that when an abuse has taken place within the household in which it is shown that the abuse may continue as justice is being sought; the victim may be taken to a safe house. When the matter is concluded, the law provides that the victim be rehabilitated or reintegrated, in which the best interest of a child should be paramount (section 30(3) of the Anti-Gender Based Violence Act). Other laws that support the social integration of victims of abuse are the Juveniles Act and the Anti-Human Trafficking Act.

87. The State party reports that whilst a number of strides have been achieved in implementing relevant provisions of the Children's Charter, a number of challenges still remain. The challenges include; inadequate financial resources in the implementation of programmes aimed at creating a conducive family environment and care for children. Further, there have been challenges in the area of competent and adequate human resource, inadequate social services such as water and sanitation due to high rate of urbanization. Furthermore, the breakdown in the extended family structures and support systems has placed a huge burden on Government to provide alternative care services and facilities. The absence of a comprehensive case management system to track children's cases and effectiveness of the available services has further compounded the situation.

88. The State party wishes to report that alternative care in the State party is provided mainly through institutions. The State party has recognized institutional care as a measure of last resort

and has put in place Minimum Standards for Child Care institutions that provide guidance for the operations of such institutions. The State party is discouraging the promotion of institution care and has instituted family centred programmes by strengthening social protection intervention. The State party also promotes foster care, adoption and extended family system. The Committee may wish to note that according to the National Child Policy of 2015, the State party encourages children to, as much as possible, grow in the family environment. Alternative care is usually considered as the last resort due to its lasting negative impact on the development of children.

89. The State party reports that the Ministry of Community Development and Social Services with the support from cooperating partners, undertook a Countrywide Assessment of Residential Child Care Facilities using the Minimum Standards of Care for Child Care Facilities adopted in 2015 as a benchmark. The Assessment report showed that a total number of 6,413 children were in child care facilities of which 3,164 were boys and 3,249 were girls. In 2013, a total number of 1,199 foster care cases were handled and 207 children were adopted locally and internationally.

90. The State party further wishes to report that it has put in place measures to ensure that children who are separated from their families are reintegrated back to the family environment, and where this is not possible, children are placed in the most appropriate alternative care. In the period of reporting, a number of children have been removed from the streets and assisted, placed in foster care, child care facilities and given up for adoption. The State party has attached hereto statistical information on a number of children per year within the reporting period, desegregated by sex who are in the stated groups. The said statistical information contains additional statistics of children in correctional facilities and those that have successfully been reintegrated into the family environment.

Views of the Children on Family Environment and Alternative Care

91. The children expressed the following views on this aspect:

- i. *Child Abuse and Neglect in the Family and Substitute Care:* The children stated that child abuse included giving a child to carry things that were heavy. Others said that giving work to a child that was not proportional to the age of the child amounted to child abuse. Some children also stated that child abuse took the form of sexual abuse, child labour and forced early marriages. The children cited poverty, traditional customs, sexual cleansing, belief that children needed to learn certain chores, desire for clothes among girls and ignorance, as some of the causes of abuse. The children stated that some children were abused and neglected by their parents or guardians and that the most vulnerable were orphans and dependants.
- ii. *Children in Substitute Care:* On substitute care, the children stated that there were very few children living with their biological parents. Most of them had lost their parents whilst others could not live with their biological parents because they were too poor to provide for their children. Some of those who lived with both their parents felt that they were given full support while others said the parents were trying their best.

- iii. *Unemployment of Parents:* The children highlighted unemployment among parents and lack of land as a major reason why children were also involved in child labour to support the family and that often resulted in children withdrawing from school.
- iv. *Sickness and Disabilities in the Family:* The children stated that in instances where there was disability or sickness on the part of the guardian, the children were responsible for most of the daily chores in the home.
- v. *Death and Separation of Parents:* The children stated that most of the children were not living with their biological parents. For example, in Mongu, a survey showed that out of the 12 children interviewed in one group, one child lived with both parents, 10 lived with guardians and one lived with a single parent. This picture is a reflection of the whole group of 50 children even though the other children did not want to disclose their true status and could not be probed further. The children further stated that children whose parents die or are separated are affected both in emotional and general wellbeing. They also stated that children with parents that are separated normally visit both parents but that the parents never visit children living with the other parent. The children also stated that they had seen children whose parents are separated selling at markets to raise money for school.

92. With regard to the thematic area on family environment and alternative care, the children made the following recommendations:

- Drop-in centres should be introduced by the Government in various areas.
- The courts of law in situations of divorce should ask children who they would like to live with so that they make a choice.
- In cases of orphans who have dropped out of school, skills training should be given to them by the Government to prevent them from engaging in negative practices such as drinking alcohol.

CHAPTER VII

HEALTH AND WELFARE

93. The State party reports that this section provides information on principal legislative, judicial, administrative and measures, particularly, programmes and projects as well as the institutional infrastructure for implementing policies regarding the health and welfare of children. This section also highlights the factors and difficulties encountered and progress achieved in implementing the relevant provisions of the Children's Charter.

a) Survival and Development (Article 5)

94. The causes of under-five mortality are as a result of preventable diseases which include pneumonia, malaria, diarrhoea, anaemia and malnutrition. In recent years HIV/AIDS has become a significant cause of deaths in children under the age of five years. The State party, however, remains committed to reducing the under-five mortality rate and has put in place strategies for the delivery of health interventions for child survival. The State party has recorded progress in Maternal, Newborn and Child Health (MNCH) indicators as reflected in the Zambia Demographic and Health Survey (ZDHS) of 2007, in comparison with the ZDHS of 2013-2014. Other notable improvements have been observed in the nutritional status of children through increased coverage of effective interventions and strategies made by the Ministry of Health over the years. According to the ZDHS nutritional indexes of children, the prevalence of underweight children under age 5 declined from 25.1 percent in 1992 to 14.8 percent in 2013 -2014.

95. According to 2013-2014 ZDHS, under five mortality rate stands at 75 per 1000 live births and the infant mortality rate at 45 per 1000 live births. These figures indicate reductions from the 2007 levels of 119 per 1000 live births and 70 per live births respectively. Although the State party has made progress in reducing under five mortality, there is need for greater efforts to be made if infant mortality is to be reduced. Neonatal mortality rate, which had remained stagnant for the past two decades, has reduced from 34 per 1000 live births in 2007 to 24 per 1000 live births in 2013-2014.

96. Paediatric HIV: With an estimated 500,000 live births every year and a 16.4 per cent prevalence among pregnant women, about 80,000 infants are born to HIV positive women annually. An estimated 33,964 children out of the 110,000 living with HIV are in need of anti-retroviral therapy. The paediatric HIV and anti-retroviral therapy (ART) programme has expanded to 509 sites in all the districts since 2004. Comprehensive paediatric HIV trainings have been conducted countrywide and over 2,000 healthcare workers in 428 facilities have so far been equipped with the knowledge and skills for management of paediatric HIV. Without intervention, one third of the infected children die before the first year, whereas 50 and 75 percent die before their second and fifth birthdays respectively. The number of infants receiving early infant diagnosis for HIV using specialized testing (DNA PCR technology) has been increasing from 35,362 in 2009 to 41,108 in 2010 and further to 46,160 in 2011. Other achievements made include development of the paediatric HIV and Prevention of Mother to Child Transmission (PMTCT) national guidelines and training manuals. The revision of the Under Five Card has made easy the identification of children in need of paediatric HIV

intervention. The advent of paediatric Fixed Dose Combination dispersible tablets (FDC) and their easy prescription using weight bands have contributed greatly to the scaling up of the programme.

97. Malnutrition poses a great risk to child survival in Zambia. In children older than 2 years, stunting negatively and permanently affects their health, learning and productivity. According to the 2013–14 ZDHS, 40 percent of children under age 5 are stunted, 6 percent are wasted and 15 percent are underweight. A child's poverty status, where they live and their mother's level of education have a strong influence on the degree of malnutrition they experience. The State party has also developed programmes to accelerate and maintain the gains in the fight against malnutrition. These programmes include scaling up nutrition and the critical 1000 days.

98. In terms of child development, children's early experiences, especially in the formative period of 0–3 years, shape brain development that influences lifelong health, learning, behaviour and well-being. Integrated early childhood care, education and development (ECCDE) are critical in influencing the development outcomes for children under the age of 6. It contributes to children's school readiness and improves learning outcomes. However, the existing ECCDE policy only covers children aged 3–6 leaving out the critical age group of 0–3 years. The State party has developed programmes in the early childhood care development sector such as creation of a directorate for early childhood education, converting of existing classrooms for early childhood education, construction of early childhood education centres using the formal and community mode, training of early childhood education teachers and the production of early childhood education materials using local resources.

b) Children with handicap (Article 13)

99. Statistics from the 2010 Census show that 2 percent of the Zambian population lives with a disability, and of these, 0.5 percent are children. There are more disabled males than females, accounting for 2.1 and 1.9 percent, respectively, and there are more disabled people in rural than urban areas. The State party reports that it ratified the Convention on the Rights of Persons with Disabilities in February 2010. In 2012, the State party repealed the Disabilities Act of 1996 and replaced it with the Persons with Disabilities Act No. 6 of 2012 which domesticates the Convention on the Rights of Persons with Disabilities. The Act promotes, protects and ensures the full and equal enjoyment of all fundamental rights and freedoms by persons with disabilities and promotes respect for their inherent dignity.

100. The State party invites the Committee to note that it has formulated the National Disabilities Policy which was launched on 15th December, 2015 to give effect and operationalise the Persons with Disabilities Act. The policy provides a framework through which the government enhances the coordination of efforts by all stakeholders engaged in uplifting the rights of persons with disabilities. The policy also ensures that the special needs of persons with disabilities are recognized in the ever-changing socio-economic environment. Without a policy framework, the roles of government and other stakeholders in issues of disability and development lacks direction and proper coordination. While the policy is not child specific, it is all encompassing. In addition, the State party has formulated the Social Protection Policy which has included issues to do with disability.

101. The Ministry of General Education has established a special needs education programme for children with disabilities that include them in regular school systems to the extent possible. The State party through the national policy will also develop and enforce mandatory standards on services, infrastructure and facilitate access to persons with disabilities. The policy will also ensure increased access to appropriate education and skills training facilities at all levels for persons with disabilities.

102. The State party has several areas of awareness raising and will collaborate with key organizations dealing with information dissemination and research to ensure that parent and public sensitization on the rights and special needs of children with disabilities, including those with mental health concerns is undertaken.

103. In addition to the financial resources that are available, the State party will put in place measures to mobilize resources from both national and external sources as well as cost sharing measures with the private sector, bilateral, multilateral and other cooperating partners for special education, including vocational training and support given to families of children with disabilities.

104. Most schools and many public buildings in Zambia are not responsive to the needs of children with disabilities. Schools do not have ramps and pathways for wheelchair use, lack teaching and learning materials for children with disabilities and do not have enough or any teachers and counsellors to manage children with disabilities. Even those schools that offer special services have inadequate learning and teaching materials such as braille, hearing aids and sign language interpreters. A major challenge in rural areas is that there are very few schools for children with disabilities, resulting in their exclusion. People with disabilities, especially those in rural areas, are more than twice as likely to suffer environmental barriers in accessing buildings, roads, and public transportation. This burden is more amplified for rural children where health and other related services are scarce and impairments cannot be detected early enough. Most rural areas in Zambia have no tarred roads or proper roads suitable for wheel chair users and those that use crutches.

c) Health and Health Services (Article 14)

105. The State party has developed and launched the National Health Strategic Plan 2011-2015. The main objective of the Policy was to, among other things, provide integrated reproductive health services and reduce maternal mortality from 591 deaths per 100, 000 live births in 2007 to 115 deaths per 100,000 live births by 2015 and to further reduce under five mortality from 119 deaths per1000 live births in 2007 to 63 deaths per 1000 live births by 2015.

106. The 2013-2014 ZDHS, shows that maternal deaths account for 10 percent of all women age 15-49. The Maternal Mortality Rate (MMR) for the 7-year period preceding the survey was 0.74 maternal deaths per 1000 women and years of exposure. The key strategies include strengthening reproductive health through safe motherhood, family planning, focused antenatal clinics, postnatal and newborn care, strengthening and improving the visibility of adolescent and reproductive health services, scaling up and expanding the coverage for reproductive health.

107. The State party remains committed to increasing access to health services for children. The following are the programmes that have been put in place:

- The Strengthened Expanded Programme on Immunisation with increased coverage of immunisation of children by the first birthday with above 80 percent coverage in all districts. The Ministry of Health launched the Bi-annual Child Health Week campaigns to supplement routine health service delivery to improve child survival and increase the access and coverage of these interventions. These campaigns, which began in 2000 with a view to immunise children who did not get immunised from measles and polio due to distance or cultural beliefs. These campaigns have been successful and are now integrated in the district action plans. Over time, the bi-annual child health week programmes have included Vitamin A supplementation, which has maintained a high coverage of 90 percent since 2007. The immunisation programme has also made several achievements in reducing vaccine preventable diseases. For example, since 2005, neo-natal tetanus has been eliminated to below 2 cases per 100,000 live births. In 2003, the State party attained a polio free status and has maintained that status. The Committee is invited to note that the State party has significantly reduced measles morbidity and mortality.
- Improved prevention, treatment and care of childhood illnesses is one strategy that has been scaled up to increase access to health care. This is being done through strengthened community and facility based Integrated Management of Child Illnesses (IMCI) strategy in all districts and through the Emergency Triage Assessment and Treatment which aims at improving care for severely ill children at hospital level through early identification and management of such cases.
- Nutrition Programmes: The infant and young child feeding programmes and management of severe malnutrition have been strengthened to increase delivery of vital nutritional interventions.
- The State party has developed a Pregnancy, Childbirth, Postpartum and Newborn Care guidelines. These are essential and evidence based guidelines meant to guide health workers to provide high standards of maternal and Neonatal care. More specifically the guidelines focus on the conditions that cause Maternal and Neonatal morbidity and mortality. Among the sections covered are emergency management called Rapid Assessment and Management (RAM) and referral, antenatal care, labour and delivery, postpartum care and newborn care.
- The State party advocates for the strengthening of the first 1000 Most Critical Days National programming. The first 1000 days programme focuses on the Care for pregnancy from conception, safe delivery practices, postnatal care and correct feeding practices.
- The State party is also implementing programmes to strengthen Emergency Obstetric and Newborn Care (EmONC) which includes the procurement of equipment for

EmONC in health centres and hospitals and training of health workers in EmONC and use of equipment. Other support services include rehabilitation of infrastructure to make possible deliveries in hospitals and with skilled attendants, building of mothers' shelters in some districts, community involvement in national child health and newborn strategies to improve newborn and child health.

- The State party is also planning on expanded coverage on nutrition commodities through scaling up of EMLIP. Baby friendly Hospital initiatives are being revitalized and expanded with links to the community and through Cooperating Partners.

Curative interventions: Post-natal Care

108. In rural areas most births occur at home without access to skilled care or emergency obstetric and newborn care. The implication of this is that about three quarters of maternal and neonatal deaths occur in the first week of delivery. Skilled care of the newborn and the mother in the post-partum period allows for early detection and delivery of appropriate life-saving interventions. The State party reports that this intervention had coverage of 39 percent of mothers receiving post-natal care within 48 hours of delivery.

Management of Pneumonia and Diarrhea

109. The State party reports that in 2007, 68 percent of children with acute respiratory infections symptoms were taken to a health facility or health worker for advice or treatment while in 2013-2014 ZDHS, 70 percent of children with acute respiratory infections symptoms were taken to a health facility or health worker for advice or treatment. According to the ZDHS of 2007, of those children who sought treatment, 48 percent received antibiotics compared to 51 percent in 2013-2014. The State party reports that there has been an increase in the treatment for diarrhoea and treatment has improved over the years from 52 percent in 2002 to 75 percent in 2013-2014.

110. According to 2013-2014 ZDHS, under five mortality rate stands at 75 per 1000 live births and the infant mortality rate at 45 per 1000 live births. These figures indicate reductions from the 2007 levels of 119 per 1000 live births and 70 per live births respectively. Although the State party has made progress in reducing under five mortality, there is need for greater efforts to be made if infant mortality is to be reduced. Neonatal mortality rate, which had remained stagnant for the past two decades, has reduced from 34 per 1000 live births in 2007 to 24 per 1000 live births in 2013-2014. The various maternal health interventions undertaken and leading to such improvements include:

- *Safe Motherhood*: The Ministry of Health advocates for four quality antenatal care sessions with an early visit in the first trimester. In the HMIS of 2011, it was reported that, in 2007 the first antenatal care was at 93 percent but the fourth visit fell to 70 percent. However, in 2008 there was an improvement in the first antenatal visits to 98 percent. In 2007, 39 percent of women attended postnatal care. The State party reports that the Ministry of Health is strengthening postnatal care especially on the sixth day and

sixth week after delivery. Antenatal coverage in 2011 stood at 86 percent while postnatal care coverage was at 74 percent.

- *Safe Motherhood Action Groups:* The Ministry of Health is supporting the formation of Safe Motherhood Action Groups in 33 districts. These groups provide information to communities on the importance of an early visit in the first trimester, danger signs that are found in pregnancy and encouraging delivery at a public or private institution by a skilled health worker. These groups comprise of both male and female community members, community leaders and Traditional Birth Attendants (TBA). An increase to 48 percent has been recorded in births at facilities over the years, while 43 percent of these account for deliveries in public institutions and 5% account for private institutions.
- *Prevention of Mother to Child Transmission of HIV:* The percentage of pregnant women put on prophylaxes to avert transmission of HIV to their babies increased from 67.9 percent in 2008 to 95.6 percent in 2010, a 27.7 percent change from 2008. Guidelines were revised to do away with the less effective single dose prophylaxes. Training of staff and other requisites have been rolled out to attain that with the President Emergency Fund for Aids Relief (PEPFAR) booster support. Among the pregnant women that attended antenatal care at least once, 98.9 percent were counseled. Among children born to mothers infected with HIV, the percentage of infants contracting HIV reduced from about a peak of 7.72 percent in 1997 to about 1.99 percent in 2011 because of the reduction of HIV infection among pregnant women and the prophylaxes administered to those who are infected in the prevention of mother to child transmission of HIV. National coverage for this programme in 2011 at about 80 per cent was approaching near universal levels.
- *Emergency Obstetric and Newborn Care:* The provision of EmONC services in Zambia has improved since the EmONC Needs Assessment that was conducted in 2006. Capacity building of health workers in EmONC has been done in 61 districts. This includes 60 comprehensive sites, 308 basic sites giving a total of 368 sites. The total number of staff trained is 768 health workers. With support from partners, the government has procured equipment for a number of EmONC sites.
- *Family planning information and services:* According to the ZDHS of 2013-14, the use of contraceptives among women has increased over the years from 15 percent in 1992 percent to 49 percent in 2013-14. The contraceptive prevalence rate for modern methods has also increased from 7 percent in 1992 to 45 percent in 2013-14. The State party plans to further strengthen family planning and contraceptive choice programmes with a special focus on rural districts. To that effect the following measures have been taken:
 - i. Creation of a budget line for reproductive health commodities which includes family planning, has been set for procurement of reproductive health and contraceptives and the government is further working towards a specific budget line for contraceptives;

- ii. Establishment of the Reproductive Health Commodity Security Committee (RHCS) was set up in order to ensure an effective and strategic response to reproductive health and family planning matters;
 - iii. Promotion of long term family planning methods are being promoted to increase access and options for women especially in rural areas;
 - iv. Training of Community Based Distributors (CBDs) to strengthened and universalise coverage and access to family planning services; and
 - v. Increase in government budget allocation to RHS from 2.4 to 6.9 million ZMW.
- *Maternal death Review:* This is a construction of events leading to the death of a pregnant woman at community and facility level. Factors that lead to the death of a pregnant woman are elucidated at community level, health centre level and hospital level, this in turn makes interventions more focused.

d) Social Security and Child-Care Services and Facilities (Article 20.2(a-c))

111. The State party reports that it has social protection programmes which are poverty reduction strategies that promote human development, social equity and human rights. These include Social Cash Transfers, PWAS and Food Security Pack (see Chapter VI). Keeping Girls in School and Women Empowerment and Livelihood (GEWEL). The policy framework reflects the traditional Zambian concern for the dignity and well-being of the incapacitated, low-capacity households, children, women and the elderly in society. The State party wishes to report that it is in conformity with the World Health Organization (WHO) guidelines in assessing disability. The high levels of extreme poverty and vulnerability, coupled with multiple effects of HIV/AIDS and unemployment demonstrate the great need for social protection. Poverty and vulnerability continue to be persistent with a national rate at 54.4 percent, urban poverty standing at 18 percent and 82 percent for rural, (Living Conditions Monitoring Survey, 2015).

112. The State party reports that under the Ministry of Community Development and Social Services developed a number of policies and programmes such as the *National Social Protection Policy, National Disability Policy and the Community Development Policy, the Minimum Standards of Care for Child Care Facilities and the Alternative Care Guidelines* which were intended to provide a framework through which the State party would enhance the coordination of all players in the provision of social and child welfare services. The women empowerment programme seeking to empower vulnerable women, through provision of skills training, income generating activities, credit facilities and entrepreneurship skills was developed. This programme is being implemented in all the districts.

e) Care for Orphans (Article 26)

113. The State party reports that the National Child Policy of 2006 and the revised National Child Policy of 2015 recognise orphans as a category of children that needs special attention in

the provision of care and other services. The State party wishes to report that it has experienced an increase in the last decade in the number of orphans due to high prevalence of HIV and AIDS, high poverty levels, increase in abuse of children and breakdown of family values and support structures. In order to address the above challenges, the state party has put policies and programmes in place. Amongst the policies are; the *National Child Policy*, the *National Social Protection Policy*, the *Alternative Care Guidelines*, the *OVC Standards* and the *Minimum Standards of Care*. Further, the State party has put in place programmes such as Social Cash Transfer, Rehabilitation and Reintegration of street Children, the Bursary Scheme, PWAS and GEWEL (Keeping Girls in School).

114. The State party reports that it has structures at national, province, district and community level for effective collaboration, networking and partnerships in awareness raising, programming, resource mobilisation and monitoring. The State party has been cooperating with the local and international organisations, UN agencies, and other Governments in addressing issues affecting children. The Committee may wish to note that the State party hosted the first ever Girls Summit in Africa on Ending Child Marriage in 2015.

Existing and Emerging Challenges

115. While some growth and progress has been observed, meeting the needs of the poorest and most vulnerable is often hampered by lack of adequate funds for social protection resulting in spreading resources too thinly on the ground. Additionally, implementation challenges resulting in poor coordination and collaboration; and, poor administrative capacity and difficulties in identifying and reaching the targeted clients have been experienced.

The State party reports that efforts are being made to address these challenges and these include:

- stakeholder consultation;
- capacity building of all stakeholders in service delivery; and increased resource allocation to the child welfare programme, in particular children living on the streets and the child justice system.

Views of the Children on Basic Health and Welfare

116. The following were the views of children on basic health and welfare:

- i. *Rights of Children with Disabilities*: The children stated that they understood the concept of children with disabilities and appreciated that children with disabilities should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate active participation in the community. They also appreciated the right of children with disabilities to special care. The children pointed out that children with disabilities faced several challenges including discrimination, neglect and ill-treatment based on the view that they were not useful in society. They stated that these factors contributed to children with disabilities not being able to further their education. The children also stated that facilities for children with disabilities such as special schools,

user friendly buildings, materials for the blind, hearing and mobility aids and sources of information for the hard of hearing and mute children were limited.

- ii. *Health Care:* According to some children, the biggest problem, with respect to health care, was that the focus was on the urban areas and the rural population was neglected. Their view was that the people in the rural areas did not have access to health care facilities as they had to travel long distances to get to health centres.
- iii. *Teen Pregnancies:* Some of the children stated that teen pregnancies were very common and most of them were caused by parents who forced their children into prostitution and early marriages in order to contribute to the income in the home. The children also noted that most pregnant teenage girls usually did not access health care because they were embarrassed to go to the clinic and, as such, gave birth at home and sometimes died during child birth. They said that some girls terminated pregnancies because of peer pressure. The children were of the view that the best way of preventing teenage pregnancy was by abstinence. In addition, they also stated that condoms could also be used to prevent pregnancies.
- iv. *Immunisation:* The children stated that immunisation against disease was a right for every child. Most of the children that were interviewed indicated that they had been immunised.
- v. *Adequate Access to Food:* The children stated that adequate access to food was important and that lack of it was a big problem in their communities. Children in rural areas pointed out that the lack of food was a result of most people not having access to farm land. Their view was that the good land is sold to investors for industrial purposes and this had affected food production. The children stated that there was a need to strike a balance between ensuring access to food and the right to education. In this regard, the children felt that a child should not be engaged in farming at the expense of going to school.
- vi. *Adequate Access to Water and Sanitation:* The children stated that there was generally lack of clean water and poor sanitation in their communities. Children in rural areas stated that they had to walk long distances while those in the urban areas said they woke up as early as 05:00 hours in the morning to access clean drinking water from communal boreholes.
- vii. *Sexually Transmitted Infections:* The children stated that they were aware of what Sexually Transmitted Infections (STIs). They stated that STIs could be prevented by using condoms. The children attributed the cause of STIs in children to defilement and prostitution.
- viii. *Suicide:* The children stated that suicide is rare among children but were aware of some cases of suicide among children. They said this mostly occurs in instances of teen pregnancies. The children also said that teasing and bullying in school further contributes to children committing suicide. Others stated that suicide was caused by hardships children experiences in their homes, lack of parental care and love. They also indicated that some children commit suicide because of lack of support.

- ix. *Mental Illness:* The children reported that cases of children suffering from mental illnesses were not common. The children, however, pointed out that children who were mentally ill were discriminated against and were unable to access the needed medical attention Zambia does not have a hospital dedicated to deal with mental health issues in children.
- x. *Access to Information on Health:* The children said that they had access to information through radio, television and posters on issues such as male circumcision and sleeping under a mosquito net for the prevention of malaria. They also stated that they receive information on health from teachers.
- xi. *Substance Abuse:* The children stated that abuse of drugs such as alcohol and marijuana is common among children. The children further said that marijuana is sold in markets while alcohol is readily available to children.

Recommendations

117. The children made the following recommendations:

- i. in order to avoid situations where children with disabilities are discriminated against, the State party should continue to build more schools for children with disabilities;
- ii. children with disabilities should have improved access to health care and, in this regard, the Government should reduce hospital fees, provide better facilities at hospitals and ensure that medicines are available at all times;
- iii. the State party should ensure that strict measures are put in place to prevent children from accessing any harmful substances and restrict liquor licences;
- iv. the State party should build drug rehabilitation centres across the country in order for children to access counselling services;
- v. Teachers should be trained to identify and counsel children abusing drugs;
- vi. the State party should ensure that children below 18 years do not access beer drinking places;
- vii. The State party should introduce stiffer penalties for teachers who abuse children as they are custodians for the children when they are at school;
- viii. A mental health institution should be established for children with mental disabilities;
- ix. Teachers should be trained to identify class bullying and resolve conflicts as part of an intervention to prevent suicide among children; and

- x. Non-governmental organisations should sensitise children on the dangers of bullying so that they are aware of the implications.

CHAPTER VIII

EDUCATION, LEISURE AND CULTURAL ACTIVITIES

118. The State party invites the Committee to note that one of the objectives of the Education Act, 2011 is to domesticate provisions in the Children's Charter on the right to education, leisure and cultural activities. In section 14, the Act asserts a person's right to early childhood care, development and education and the right to basic and high school education. Section 15 expressly provides for the right to free basic education. The Act also provides for general education and guidance to be progressively available and accessible to all persons. It must also be noted that the Act is currently being amended to provide for compulsory primary and secondary education. In accordance with Article 11(3)(a) of the Children's Charter, compulsory school attendance has been provided for in section 17 of the *Education Act*. Further, vocational training is provided for under the Technical Education, Vocational and Entrepreneurship Training Authority Act No. 13 of 1998 which provides for the regulation, coordination and monitoring of technical education, vocational and entrepreneurship training in consultation with industry, employers, employees and other stakeholders.

119. The policy of the Ministry of General Education is to provide equitable access to quality education for all Zambians, including orphans and other vulnerable children. To this effect, in 2002, the State party introduced the Free Basic Education Policy which abolished user fees for Grades 1 to 7. As a result of this policy, primary school enrolment has increased.

a) **Education, Including Vocational Training and Guidance (Article 11)**

120. To ensure access to education for all, the State party has embarked on the development and expansion of the school infrastructure in all the ten provinces at early childhood education level, primary and secondary school levels. In an effort to expand access to quality education, the State party has, during the time of reporting, constructed 8,823 primary schools and 851 secondary schools and has shifted the mandate for providing Early Childhood Education from the Ministry of Local Government to the Ministry of General Education. The State party has put in place an ambitious programme to increase classroom space for learners. This will include the construction of approximately 30,000 classrooms and training and recruitment of 25,000 in the next five years. The recruitment of more teachers will result in reducing the teacher to pupil ratio from the current 1 teacher to 45 pupils for primary and 1 teacher to 35 pupils at secondary.

121. Other measures that the State party has put in place are to increase access to education, vocational training and guidance are; reintroduction of the Re-entry Policy, the embracing of community schools and the abolishment of cut-off point at Grade 7. The State party has also put measures specifically focussing at enhancing counselling and guidance services for children by creating space in schools and training of teachers in counselling and guidance.

122. In order to address the issues of retention, transition, and school attendance, the State party has a number of programmes aimed at addressing some of these challenges. These programme include GEWEL (Keeping Girls in School), Social Cash Transfer and the introduction of feeding programme, provision of bursary and scholarships to vulnerable children.

123. In order to strengthen community participation in the education sector, the State party has created Provincial Education Management Committees (PEMCs) and District Education Management Committees (DEMC) at provincial and district levels respectively. The existence of District Education Boards and High School Boards is also meant to enhance community participation in the provision of education. The State party reports that the Education Act provides for the establishment of learners' representative councils (School Councils) to participate in school governance. The Government is now in the process of developing a Statutory Instrument to operationalise School Councils.

b) Leisure, Recreation and Cultural Activities (Article 12)

124. The State party recognises the importance of sport, play, leisure and recreation in the development and character formation of young people. According to the 7NDP, the child, youth and sports development sector is seen as having great potential to contribute effectively to poverty reduction and economic growth through skills development and promotion of sport. Further, the Ministry of Youth, Sport and Child Development has been restructured to ensure the presence of sports development officers in all the provinces of Zambia. Sports Advisory Committees have also been established at provincial and district level to coordinate sports activities. There has been an increase in private sector participation in sports development with corporate entities sponsoring club and community sport and rehabilitation of sports infrastructure. Furthermore, the revised School Curriculum has included sports at all levels for mental, physical and health promotion. Additionally, the State party is promoting minor sports such as handball, volleyball, hockey, netball, swimming, chess, paralympic, deaf Olympic, special Olympic and others. The State party is also establishing centres of excellence for talent identification and refining. The State party reports that it has reintroduced physical education in colleges and schools and made it examinable.

125. The State party wishes to report that it has embarked on programmes to establish reading and recreation centres by identifying old council buildings in liaison with local authorities countrywide and renovating them for this purpose. These facilities are intended to offer reading and recreation activities for children in provinces and districts as well as early childhood care, education and development activities. The State party has recreational and reading facilities for children in all 10 provinces. The State party reports that most public and private schools and early childhood education centres have playgrounds to support leisure and recreation.

126. The State party reports that following the enactment of the National Arts Council Act No. 31 of 1994 and the launch of the National Cultural Policy in 2003, there has been a growth in cultural activities. Strategies adopted include the rehabilitation and construction of art and cultural infrastructure in schools and communities, the building of capacities of arts, music and cultural teachers, administrators and peer educators and the development of outreach programmes for increased access to museums, heritage sites and archives among children and youth. This policy enshrines capacity building and strengthening of education and tertiary institutions in arts and cultural disciplines. The National Arts Council, through its affiliate bodies, has established presence in nearly all the primary, basic education, secondary and high schools to encourage children participation in culture. The State party intends to develop a curriculum for teaching art disciplines at examinable levels from primary to secondary school

while strengthening the capacity of universities and colleges to train professionals in creative industries in the areas of theatre arts, music and dance, film and video production and other areas in the industry.

127. The State party is disadvantaged by inadequate and dilapidated infrastructure. There is a shortage of community halls, theatres, arts galleries and cultural villages. The spaces that are available are often dilapidated and, in many, cases used for purposes other than the ones for which they were intended.

128. The State party reports that it encourages all stakeholders such as parents, families, communities, Parent-Teachers' Associations, school boards, traditional leaders and Members of Parliament to take an active role in the affairs of schools. Further, the State party reports that it has established cooperation with United Nations agencies, local and international non-governmental organisations in the implementation of programmes aimed at protecting and promoting the right to education and also participate in regional mechanisms in the sub-region.

Views of the Children on Education, Leisure and Cultural Activities

129. On education, leisure and cultural activities, the following views came from the children's conferences:

- i. *Right to Education- Access to Mainstream Education by Children with Disabilities:* The children stated that they attended the same schools with children with disabilities.
- ii. *Children Reaching Grade 5:* The children stated that most children go beyond Grade 5 but drop out in Grades 8 and 9 due to teenage pregnancy and the need to help with income generation at home.
- iii. *School Attendance by Girls who Fall Pregnant:* The children indicated that they had female colleagues who had fallen pregnant whilst in school and that those girls attended school until they went on maternity leave. They also mentioned that the girls are allowed to come back to school after giving birth. Some children referred to this as government's re-entry policy. Children, however, mentioned that few girls continue to attend school after falling pregnant and child birth. The common reason that the children gave was stigmatization. Some children felt that the re-entry policy encourages girls to get pregnant because they know they will be allowed to go back to school.
- iv. *Punishment in Schools:* The children stated that they were punished at school when they did something wrong. They further stated that corporal punishment still existed in schools. However, some children mentioned that corporal punishment had reduced in their schools and had been substituted with other forms of punishment. Additionally, the children stated that children in lower grades, mainly at boarding schools, were bullied by those in higher grades and that the bullies were punished when caught.
- v. *Learning about Children's Rights:* The children stated that all children in Grade 12 learn about children's rights at school. They also stated that other children learn about their

rights at the children's rights clubs in their schools which are headed by teachers and peer educators. Other children mentioned that they learnt about human rights for the first time during the Provincial Consultative Children's Workshops.

- vi. *Language of Instruction:* The children mentioned that the language of instruction in school was English and sign language for children with special needs. However, the children indicated that local languages were also used depending on the area.
- vii. *Safe Play Areas:* The children mentioned that there were no safe playing areas within walking distance save for school play grounds which the children use mainly for playing football.
- viii. *Membership to Organisations:* The children indicated that they belonged to different organisations and clubs of their choice such as the following:
 - JETS Club
 - Debate Club
 - Children's Rights Clubs
 - Anti-Aids Club
- ix. *Time Use:* The children mentioned that they used time in the following manner:
 - Studies – 1 hour
 - Leisure – 3 hours
 - Not spent in school – 4 hours
 - House work – 2 hours

Children with disabilities stated that whilst the able-bodied children engaged in activities such as football and netball, they spent their time helping with chores at home.

- x. *Hobbies:* The children stated that they liked cooking, singing and dancing. Many of the children mentioned that they did not have libraries at their schools and that they just borrowed books from friends and teachers.

CHAPTER IX

SPECIAL PROTECTION MEASURES

130. The State party reports that this section provides information on the principal legislative, judicial, administrative and measures, particularly, projects and programmes regarding special protection measures for children. This section also highlights the factors and difficulties encountered and progress achieved in implementing the relevant provisions of the Children's Charter.

a) Children in situations of emergency

(i) Refugee, returnee and displaced children (Articles 23 & 25)

131. The State Party is committed to performing its obligation towards the protection of refugees in accordance with applicable international law. The Refugees Control Act of 1970, Chapter 120 of the Laws of Zambia, is still the principal piece of legislation that regulates issues to do with refugees and asylum seekers. The Act has no specific provisions with regards to child refugees and child asylum seekers. Further, the State party cooperates with international organisations such as the United Nations High Commission for Refugees (UNHCR) and the International Organization for migrations (IOM) in protecting child refugees, asylum seekers, child migrants and unaccompanied minors. Guidelines are in place used for assessment and determination of the best interest of the child administered by a Multi Sectoral Committee. In addition, child protection centres have been established where psycho-social support services are offered.

(ii) Children in armed conflicts, including specific measures for child protection and care (Article 22)

132. The State party reports that it is presently a peace haven in Southern Africa thereby not having children in armed conflicts. The State party, therefore, has nothing to report.

b) Children in Conflict with the Law

(i) The Administration of Juvenile Justice (Article 17)

133. The State party has adequate laws in the administration of juvenile justice. The Constitution of Zambia, the Juveniles Act, the Penal Code, the Probation of Offenders Act and the Criminal Procedure Code are the laws that offer children's sense of dignity, worth and reinforces the child's respect for human rights and fundamental freedoms. Article 15 of the Constitution of the State party provides for the protection from torture, inhuman, degrading punishment or other like treatment. Whereas, Article 18(a) provides for the presumption of innocence in which an accused person including a child accused of an offence, is presumed innocent until proven guilty by a Court of competent jurisdiction. Further, Article 18(b) provides that the accused should be informed as soon as reasonably practicable, in a language that he understands and in detail, of the nature of the offence charged with. Article 13(2) of the

Constitution of the State party demand that, a person who is arrested or detained, be informed as soon as reasonably practicable, in a language that he understands, of the reasons for his arrest or detention. Furthermore, the Constitution of Zambia Article 18(d) and the Legal Aid Act provides for the provision of legal aid to the accused person who cannot afford to engage a legal practitioner to represent him/her. Additionally, Article 18(1) provides for a speedy determination of a case by an impartial tribunal. The Juvenile Act of the laws of Zambia demand that the Juvenile Court sitting to hear a case involving a juvenile in conflict with the law must clear the Court of members of public however, the law allows the bona fide members of the press to attend trial or be present in Court during trial. According to section 73(1) of the Juveniles Act, a child who is given a custodial order may be sent to an approved school or reformatory school where *inter alia*, where a child will be taught his or her duty to be a good and responsible citizen. These schools help to reform a child by making them responsible citizens by ensuring that a child carries out its duties diligently.

134. Further, to ensure effective coordination of juvenile justice administration, the State party created Child Justice Forum, a consortium consisting of the Police, Social Welfare, Courts and Prisons to protect the rights and welfare of children who come in conflict with the law in which the best interest of the child is paramount. Another measure put in place to curb instances of abuse of children that come into contact with the criminal justice system was put in place through the Zambia Police Amendment Act No. 14 of 1999 which established the Community Services Directorate within the Zambia Police service. The Community Services Directorate has the Child Protection and Victim Support Units.

135. The State party wishes to inform the Committee that it has established Child Friendly Court and that all matters related to children are held in camera. The purpose of this court is to provide a system that assesses children holistically in a non-threatening and participatory manner and makes decisions based on the best interest of the child and balanced with the interests of justice. The language used in Child Friendly Courts allows the child to participate by cross examining witnesses, which is also extended to the child's parents or guardians. Where the child's parents or guardians are not before court, this right is extended to the social welfare officer who represents the child.

136. The State party has put in place a diversion programme, that is, the channeling away of prima facie cases from the formal criminal justice system to extra judicial services. Although, diversion programme is not provided for under the law, the State party has put administrative measures in place to ensure that children who commit minor cases are diverted. The State party has developed a national framework on diversion programme to guide various stakeholders on the implementation of diversion starting at arrest level. Under the law review process for child related legislation, it has been recommended that diversion should form part of the legislation under child justice.

(ii) Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial setting and compliance with the provisions of Article 5(3) of the Children’s Charter prohibiting death sentences on children (Article 17.2(a))

137. In relation to children deprived of their liberty including any form of detention, imprisonment or placement in custodial setting as provided under Article 5(3) prohibiting death sentence, the state party submit that it is in compliance with the provision of the Charter. The Penal Code of the state party prohibit death sentence to be meted to a person convicted of an offence if at the time of committing the offence he was under the age of 18 years. Further, the State party has put measures in place to ensure that children once in detention are separated from the adult accused persons to avoid being negatively influenced. Furthermore, the law provides for the detention of a juvenile as a matter of last resort. To lessen detention of children, the State party is developing guidelines for the children as well as the public and child justice professions on the issuance of bail bond and the rights of the children to bail. In addition, the State party is prioritising community based services such as diversion.

(iv) Reformation, Family Reintegration and Social Rehabilitation (Article 17.3)

138. The State party wishes to inform the Committee that the main goal of the juvenile justice administration is to help the child to reform. To ensure that there is effective family reintegration, the law encourages the participation of the family in the administration of justice right from the beginning. The law encourages the courts to exhaust all available options before giving custodial orders section) 72(3) of the State party makes the sending of a child to a reformatory as a last resort, having regards to his character, previous conduct and the circumstances of the offence, for the sole purpose of his reformation and the prevention of crime as provided for under section 72(3) of the Juveniles Act. The State party focuses on reformation, family reintegration and social rehabilitation of a child in conflict with the law as opposed to passing custodial sentences in its courts.

c) Children of imprisoned Mothers

(i) Special treatment to expectant mothers and to mothers of infants and young children who have been found guilty by law (Article 30)

139. The State party is in compliance with Article 30 of the Charter on matters pertaining to expectant mothers and mothers of infants who are facing a custodial sentence. Section 25(4) of the Penal Code and section 306 of the Criminal Procedure Code prohibits a death sentence to be passed against an expectant mother. Section 25(4) of the Penal Code provides that, “*where a woman convicted of an offence punishable with death is pregnant; the sentence to be passed on her is imprisonment for life instead of death*”.

140. In relation to the infant to an imprisoned mother, the state party is complying with the provision of the Charter. Section 56 of the Prisons Act Chapter 97 of the State party empowers the Prisons Service to receive an infant of a woman prisoner into the prison environment so that such an infant is not suddenly detached from its mother and that such a child can later be handed

over to the father, relatives, friends or Social Welfare for protection. However, when the child has attained the age of four years, the officer in charge, on being satisfied that there are relatives or friends may hand over the child if satisfied with their capacity if not, may hand over the child to welfare authorities under the approval of the Commissioner General for Correctional Services. There is, however, a proposal to reduce the age of 4 years to 2 years in the Zambia Correctional Services Bill that is currently being drafted that will take into consideration the best interests of the child.

141. The State party is, however, concerned that the correctional facilities are congested and there have no separate facilities for expectant and lactating mothers. In addition, the children have no special diet and access to early childhood education. The State party is in the process of reviewing the laws that govern correctional facilities.

(ii) A mother shall not be imprisoned with her Child (Article 30(d))

142. The State party has adequate laws that comply with Article 30(d) on sentencing of a mother with a child. Section 24(b) of the Penal Code, sections 2 and 4 of the Penal Code (Amendment) Act No 12 of 2000, section 2 of the Criminal Procedure Code (Amendment) Act No13 of 2000 and section 3 of the Prisons (Amendment) Act No 14 of 2000 of the state party provides for non-custodial sentences to be passed on petty crimes. These are the laws that are applicable when dealing with a mother of an infant.

(iii) Reformation, integration of the mother into the family and Social Rehabilitation (Article 30(f))

143. The State party wishes to report that it has structures that deal with the reformation, social integration of incarcerated mothers upon completion of their custodial sentence into society and inter-ministerial/integration committee comprising of officers from the prison correctional services, ministry of Gender, Community Development and Social Services and other stakeholders such as ex-prisoners have programmes that aim at reforming and settlement of women in prison. Some of the programmes undertaken, include counselling, education and vocational skills training.

144. Upon release from prison, these women are linked to the office responsible for social welfare in their respective districts of their residence where they are assisted with basic requirements for them to settle in society.

d) Children in situations of Exploitation and Abuse

145. The State party reports that it has laws in place that protect children from all forms of abuse, neglect and exploitation. The Constitution of Zambia being the supreme law of the land provides protection to children in its territory against physical, mental, sexual and all forms of neglect, cruelty or exploitation (Article 24, of the Constitution of Zambia). The Penal Code of the State party is the main law on the protection of children on abuse. It criminalises physical, sexual, mental, economic and social cultural abuse. Other legislations that are influential in the

fight against child abuse are the Juveniles Act, Anti-Gender Based violence Act, the Anti-Human Trafficking Act, the Gender Equity and Equality Act and the Education Act.

(i) Economic exploitation including Child Labour (Article 15)

146. The State party reports that it has put in place policies and plans aimed at protecting children from economic, exploitation, including child labour. The Anti-Human Trafficking Act, the National Child Labour Policy and the National Child Policy all place priority on protection of children. The State party wishes to report that 1,300,000 children are involved in child labour mostly in the agriculture and other informal sectors. The Employment of Young Persons Act prohibit the employment of children. The Act also Domesticates the ILO Convention 182 on the Employment of Child which restricts the minimum age for employment and seeks to eliminate the worst of child labour. The State party has introduced bursaries schemes, social protection and empowerment programmes for caregivers of vulnerable families in order to address challenges of child labour and exploitations.

(ii) Drug Abuse (Article 28)

147. The Narcotic Drugs and Psychotropic Substances Act Chapter 96 of the laws of Zambia offers protection to children from drug abuse. The Constitution protects young persons from all forms of exploitations including drug abuse and related matters. The State party also has other laws such as the Juveniles Act that protect children from drug abuse which is a form of exploitation.

148. The State party has created the Drug Enforcement Agency to combat all drug related matters in the Country. The Drug Enforcement Agency of the state party has an Education and Counselling Department that protect children from drug abuse. This is done through educational (Sensitization), counselling and rehabilitation programmes that the Department undertakes. Although the Agency has no facilities for rehabilitation, this is conducted in conjunction with other cooperating partners.

(iii) Abuse and Torture (Article 16)

149. The State party has adequate laws that protect children from abuse and torture. The Constitution prohibits torture, inhuman, degrading punishment or other like treatment as provided for under Articles 15 & 24. Further, the Penal Code (Amendment) Act No 10 of 2003 repealed corporal punishment. Furthermore, the Penal Code (Amendment) Act No 15 of 2005 protects children from assault and battery as provided for under section 248A. This entails that no person can torture or physically abuse a child without being punished.

150. Apart from legislative measures, the state party has in place monitoring units to protect children from abuse and torture. These include the Human Rights Commission, the Zambia Police Victim Support Unit, the Zambia Police Child Protection Unit and the Department of Social Welfare.

(iv) Sexual Exploitation and Sexual Abuse (Article 27)

151. The State party has adequate laws that protect children from sexual exploitation and sexual abuse. The Constitution of the State party protects children from all forms of exploitations including sexual exploitation. Further, the Penal Code (Amendment) Act No 15 of 2005 protects children from all forms of sexual exploitation by stiffening the punishments. Section 137 of the Penal Code (Amendment) Act of the State party protects children from being indecently assaulted while section 137(A) of the same Act protects children from sexual harassment. Section 138 of the Penal Code (Amendment) Act No 15 of 2005 protects children from being defiled, forced into prostitution and being detained in brothel with intent to defile them while section 156 of the same Act protect children from being victims of unnatural offences and incest. Furthermore, section 177 of the Penal Code (Amendment) Act No 15 of 2005 protects children from being used in production of pornography. The other Acts that protect children from sexual exploitation are the Anti-Gender Based Violence Act, the Juveniles Act, the Gender Equity and Equality Act No. 22 of 2015 and the Education Act which provides for the protection of children from being sexually harassed and married off whilst being a learner.

152. Further, the state party created the Victim Support Unit in 1994 under the Zambia Police Service to fight sexual exploitation which received the legal backing through the Zambia Police (Amendment) Act No. 14 of 1999. The Unit has been fighting sexual exploitation of children through sensitization, investigation and counselling of both the victim and the accused person so that they can refrain from the vices.

153. Evidence on the fight against sexual exploitation by the Victim Support Unit is shown by their annual statistics that show the total number of Gender Based Violence cases dealt with by the Unit country wide. In 2016, the Unit recorded 2, 493 cases of sexual exploitation of varying charges namely; Child Defilement, Incest, Unnatural offences, Sexual Harassment and indecent Assault. From 2014 to 2016, the Unit dealt with 7,853 cases country wide of which 7,769 were girls and 84 were boys. The State party has put in place monitoring units to protect children from sexual exploitation and sexual abuse; these are the Human Rights Commission, the Zambia Police Victim Support Unit, Zambia Police Child Protection Unit and the Department of Social Welfare exercising the powers of the Commission for Juveniles.

154. Although institutions such as the Human Rights Commission and the Zambia Police Service Victim Support Unit exist to deal with the problem of child sexual abuse, some major constraints to the fight against the scourge impede progress. The reluctance of the families and communities to report child sexual abuse cases and acknowledge the existence of sexual abuse problems has been the major obstacle to effectively deal with the problem. Also, the existence of a dual legal system (statutory/customary) compounds the problem of child sexual abuse in that children can be married off at an early age provided the parents have consented. The State party wishes to reports that it is currently drafting the Marriage Bill which when enacted into law will address the said problems which are as a result of the dual legal system. The Marriage Bill proposes to prescribe a minimum age for marriage.

155. However, the State party is concerned with the practices on sexual abuse of children where local courts treat such cases as civil when the Penal Code Act and the Anti-Human Trafficking Acts criminalise such cases.

(v) Other Forms of Abuse and exploitation such as Begging, Early Pregnancy, etc. (Article 29(b))

156. The State party reports that it is in conformity with Article 29(b) of the Charter which protects children from other forms of abuse and exploitation such as begging and early pregnancy. The Constitution of Zambia protects children from all forms of exploitation. Further, the Juveniles Act, section 9(2) (c) and 50(1) protects children from begging and the use of children as a means of attracting sympathy from the public is also outlawed. Further, the State party through the Ministry of Community Development and Social Services and the Ministry of Youth, Sport and Child Development working in collaboration with other stakeholders has been mounting national wide campaigns to discourage begging and the use of children. The State party has also developed the national strategy for ending child marriage. It has also put in place sexual reproductive health strategy targeting teenagers and establish youth friendly corners in health institutions for the purpose of allowing youths to access health services.

(vi) Sale, Trafficking and Abduction (Article 29)

157. The State party is in compliance with the Charter in the sense that it has put laws in place that protects children from sale, trafficking and abduction. The Constitution of the state party is influential in the fight against sale, trafficking and abduction. The Constitution of the state party prohibits all forms of exploitation, one of the elements of the offence of trafficking in person. Further, the constitution provides for the protection of personal liberty. The Anti-Human Trafficking Act is the main law in the fight against trafficking in persons. Section 3(1)-(8) of the Anti-Human Trafficking Act offers protection to a child from sale, trafficking and abduction.

158. Further, the state party extend protection from sale, trafficking and abduction to children who are victims of trafficking found in its territorial land. According to section 31 of the Anti-Human Trafficking Act, a child who is a victim may be placed in temporary safe care, pending an investigation. Furthermore, in case of a child who is not a Zambian national but who is a victim of human trafficking, the Court may make an order that the child be assisted to apply for an asylum and allowed to remain in the territory of the state party for the duration of the child's Court Order. Further, the Penal Code also provides protection to children from abduction. However, child trafficking is still a grey area as many cases go undetected. In addition, the Act does not protect children that are victims of smuggling due to their incapacity to consent.

e) Children Victims of harmful Social and Cultural practices affecting the Welfare, Dignity, Normal Growth and Development of the Child

(i) Betrothal of Girls and Boys (Article 21.2)

159. The State party reports that betrothal of girls and boys is not practiced in Zambia. Accordingly, it has nothing to report under Article 21.2.

(ii) Early and Forced Marriage (Article 21.2)

160. The State party has put measures to protect children from early and forced marriages. The Constitution protects children from all forms of exploitation and cruelty. The Anti-Gender Based Violence Act describes early child marriage as a form of gender based violence. The Marriage Act sets the minimum age for marriage at 21 years. The Education Act provides protection to children who are in school from early marriages.

161. The Committee may wish to note that in 2014, the State Party commissioned a study on child marriage in Zambia. The State party has one of the highest reported rates of child marriage in Africa – estimated at 42 percent (CSO, 2014). The findings indicated that child marriage in Zambia is most commonly a union of peers, and most often a reflection of deep social and economic inequalities still pervasive in the country (Zambia Health and Wellbeing Survey – Findings from a national survey, 2014). Many child marriages were found to be driven by a desire to seize an opportunity to escape bad living conditions, meet basic needs, enhance the child’s or parent’s status in the community, secure an economic benefit, or remain within the peer group.

(iii) Any form of Female Genital Mutilation (Article 21.1(a))

162. The State party wishes to report that female genital mutilation is not practiced in Zambia. Accordingly, it has nothing to report under Article 21.1(a).

(iv) Any other form of harmful Social and Cultural Practices (Article 21.1(b))

163. The State party wishes to report that its Constitution protects children from harmful social and cultural practices. The other law that is instrumental in the fight against harmful cultural practices is the Penal Code (Amendment) Act (section 157), such as sexual cleansing, female genital mutilation or an initiation ceremony that result in injury in the transmission of an infectious or life threatening disease or loss of life to a child.

f) Children belonging to a minority Groups (Article 26)

164. The State party reports that it does not have any ethnic, religious or linguistics minorities or indigenous groups living within its territory. Accordingly, it has nothing to report under Article 26.

g) Children who need special protection on account of being in risky or vulnerable conditions and situations such as street children or HIV/AIDS orphans (Article 26)

165. The State party wishes to inform the Committee that the Constitution of Zambia provides special protection to children in vulnerable conditions (Article 24). Section 50(2) of the Juveniles Act prohibits any person having custody of the child from allowing the child to be on the streets for the purposes of begging or any place that would put the child at risk.

166. The State party wishes to report that it conducted a *Study in 2006 on Street Children*. The results of the study established that there were 13,500 children living on and off the street. Amongst the factors that contribute to children living on and off the street are abuse in homes, neglect, poverty, loss of parents through HIV and AIDS. The State party reports that in order to address the challenges faced by the children living on and off the street, it has put in place policies such as the National Child Policy 2015, the Minimum Standard of Care, OVC Standards, Social Protection Policy 2014 and the National Education Policy 2015.

167. The State party has also put in place programmes such as the Rehabilitation and Reintegration of Street Children through strengthening families by providing social cash transfer, empowerment of venerable households to ensure that the welfare of street children as well as OVCs are protected. In addition, specific interventions aimed at preventing abject poverty and destitution in the home, an aspect reported as contributing immensely to the population of street children, are implemented by the State through programmes such as the Public Welfare Assistance Scheme (PWAS) and the Child Grant Scheme focused mainly on children in the most destitute and incapacitated 10 percent of households.

168. The State party has established child protection committees nationwide whose mandate, among others, is to monitor and evaluate programmes such as Rehabilitation and Reintegration of street children, the coordination of stakeholders in child development and resource mobilisation towards programmes that address the plight of street children and orphans. Further, Child Protection Committees (formerly Street Children Committees) have been increased from 13 to 25 in various districts as interventions aimed directly at helping children living on the streets. The committees' main objectives are to provide coordination, capacity building and resource mobilization at local and regional levels. These committees include representatives from relevant organizations that provide services to street and other vulnerable children. The Child Protection Committees now cover five thematic areas namely education, health, and nutrition, child protection and GBV, psychosocial support and economic empowerment.

169. The State party reports that preventive and rehabilitative services for physical, sexual and substance abuse are provided through partnership between government and private childcare institutions. Children, once removed from the streets, are taken to childcare institutions that care of children from the streets. Further, the State party has established Chikumbi Children's Centre in Lusaka and Mufulira Children's Centre in the Copperbelt Province for rehabilitation before reintegration of the children from the streets.

170. The Ministry of Youth, Sport and Child Development is currently implementing a programme of removal and rehabilitation of older children or youth found on the streets but the Ministry has been facing some financial challenges. The programme includes taking the children to Zambia National Service Facilities for rehabilitation and training in various economic skills. Graduates are empowered with tools in their specific area of training to help them support themselves upon graduation.

171. The State party wishes to report that according to the Situation Analysis of orphans and vulnerable children undertaken in 2004, there were 1.3 million orphans and vulnerable children.

h) Any other emerging or unforeseen problem (Article 26)

172. The State Party reports that it has two statutes offering protection from cybercrime namely; the Computer Misuse Act No 13 of 2004 and the Electronic Communication and Transaction Act No. 21 of 2009. These Acts do not expressly offer protection to children, but all customers. Section 102 of the Electronic Communication and Transaction Act provide protection to children (customer) by prohibiting production, offer, make available distributes, transmits, procure and possess any pornography for oneself or another person in a computer system.

173. The State party further report that it's Penal Code (Amendment) Act No 15 of 2005 does protect children from child pornography by prohibiting the engaging of a child in pornographic performance, production of pornographic films and any pornographic activity of any nature. However, these legal provisions do not adequately protect children in relation to cybercrime, as a result it is yet to introduce new laws on cybercrime. These Bills are the Cyber Security Bill, the Data Protection Bill and e-transmission and e-commerce Bill.

174. The State Party has set up institutions to implement the provisions in the act, these are Zambia Information, Communication and Technology Authority (ZICTA) and Cyber Crime Section under Zambia Police Service.

Views of the Children on Special Protection Measures

175. The following views were expressed in the children's consultative workshops:

- i. *Cruel, Inhuman and Degrading Treatment:* The children stated that they are mistreated by some teachers at school. For instance, some teachers inflicted corporal punishment on the children even though it is prohibited. At times teachers would use abusive language towards the children. Further, the children mentioned that they were subjected to punishment which is inhuman and degrading. This included whipping with a hose pipe, holding one's ears by passing the hands in between the legs and being put on detention for long hours and being made to miss lunch.
- ii. *Children working and not attending and Children working and attending School:* The children stated that there were more girls working and not attending school while there were more boys working and attending school.
- iii. *Perception of the Justice System:* The children who had come into conflict with the law stated that it took long for juvenile offenders to be taken to the reformatory school and that the Confirmation Orders by the High Court equally took long.
- iv. *Street Children:* The children said that most of their friends had resorted to living on the streets due to the death of their parents through HIV/AIDS, abuse from their guardians or step parents, rejection and peer pressure. The children recommended that Government should provide programmes for skills training and build skills training centres for street children.

- v. *Children in Conflict with the Law:* The children were of the view that children who came into conflict with the law should not be detained with adult offenders as they ended up being sexually abused and some may become criminals. They also recommended that juvenile detention centres should be built in all the provincial centres as a means of preventing juveniles from mixing with adult offenders. The children were of the view that a child should be given a chance to reform and not be punished when they committed an offence and if possible turn their sentences into community service.
- vi. *Sexual Abuse:* The children stated that there were high levels of sexual abuse which they failed to report as most of them involved their guardians, close family members or powerful members of their communities. The children recommended that the Social Welfare Department should be empowered to help in matters of sexual abuse.
- vii. *Child Labour:* The children stated that child labour was rampant mostly in the rural areas. This was said to contribute to children stopping school during the planting or harvesting seasons. The children recommended that child labour laws should be enforced.

CHAPTER X

RESPONSIBILITIES OF THE CHILD

176. The State party recognises the duties of a child towards parents, family and community, and towards the state. Therefore, it has put in place measures to ensure that these duties are carried out diligently and according to the evolving capacity of the child. The State party has adequate laws pertaining to the duty of a child towards the State and African continent. Article 43 of the Constitution of Zambia provides for the duties of a citizen including a child. Further, the State party's formal education system, traditions, customs and religion (Christianity) puts a responsibility of a child to its parents, community, superiors and the State (Article 7 of the Constitution of Zambia).

a) Towards the parent, the family and the community (Article 31)

177. The State party reports that it has laws that place a duty on a child towards his/her parents. However, Zambian customs and traditions places duties on a child towards the parents. Some of the responsibilities of a child towards the parents are; respect the parents and other people that include other children and adults. A child also has a responsibility to help parents with home chores the best way he/she can, depending on his or her evolving capacity. The Christian Religion also places duties and responsibilities on a child to respect his/her parents, Exodus 20:12 and Leviticus 19:3 are authorities. Children have a duty or responsibility to listen and obey the rules set by their parents, as long as those rules are in their best interests. The Education Act has incorporated the curriculum responsibilities of children to respect parents, other elders and fellow children. Children are also taught the importance of cooperation which fosters the spirit of teamwork, making children realise the need to help parents in their chores.

178. One of the duties that a child has towards his family is to support the family in times of need depending on his or her capacity and respecting other members of the family as already stated.

179. Moral values, custom, educational system and religion places a duty on a child towards the community. Some of the duties placed on a child in the community are to respect parents, elders and other children. Children also have a duty to protect the environment, property and to observe nation laws and regulations. A child has a duty to support the community in times of need depending on his/her evolving capacity.

180. Children are taught that they have a duty to love and respect their parents and family. They have a duty to look after the old members of their family. This responsibility goes with the age of the child. A Child is taught at an early age the duty to speak and behave respectfully to others. A Child who behaves rudely and irreverently is always controlled by the parents and if they fail, by the other members of the family. A child is taught his or her duty towards younger members of the family. This duty towards younger members of the family is more of showing love and care for them.

181. As for the responsibility towards the community, children are taught that they are full members of their community and that their responsibilities to their communities and society as a whole grow with age. A child has a duty to take care of the members of the society especially the physically challenged and old. Culture demands that a child is taught at an early age to share resources with other children, especially those who have less in the community. Children have a responsibility to keep cultural values and the environment clean and healthy. Further, they are taught to keep norms of dignified behavior and follow rules of places of living, working and studying. Generally, a child has a duty take part in civic activities.

182. The Committee may wish to note that the State party faces challenges in teaching children their duties and responsibilities towards their families and community. Families are becoming more individualistic. Culture is being ignored by the day and the values of extended family and community is slowly diminishing. Children tend to value the teachings of their parents more than the teachings and needs of their extended families and their community.

b) Towards the Superiors (Article 31)

183. The State party wishes to inform the Committee that its custom, religion and education system places a duty on a child towards his superiors. The word superior in this context includes; parents, adults, civic leaders, teachers, government officials, religious leaders, village headmen and chiefs. The State party's customs and traditions, formal education and religion teaching promote and encourage children to respect and obey superiors.

c) Towards the State and the Continent (Article 31)

184. The State party wishes to report that its Constitution places a responsibility on every Zambian, including children, to be patriotic and promote its independence and good image. Further, the State party places the duty on people including children to foster national unity and live in harmony with others which is consistent with Article 31(c) which demand the preservation and strengthening social and national solidarity. Furthermore, the Constitution of the state party places a duty on a child to understand and enhance Zambian's place in the international community which correspond with Article 31(f) of the Charter which provide for a duty to contribute to the best of his abilities at all times and at all levels, to the promotion and achievement of African Unity. The state party has adequate laws pertaining to the duty of a child towards the state and cabinet. Article 43 of the Constitution of the state party provides for the duties of a citizen including a child and these are:

- to be patriotic to Zambia and promote its development and good image;
- to protect and conserve the environment and utilise natural resources in a sustainable manner;
- to maintain a clean and healthy environment;
- to cooperate with law enforcement agencies for the maintenance and enforcement of law and order.

Other duties are:

- acquire basic understanding of the Constitution and promote its ideals and objectives;
- develop one's abilities to the greatest possible extent through acquisition of knowledge, continuous learning and the development of skills;
- foster national unit and leave in harmony with others; and
- understand and enhance Zambia's place in the international community.

185. In schools, children learn from an early age that they have a duty to respect their teachers. Teachers are allowed, within the limits of the law to correct an unruly child and due to the cultural belief, that a child belongs to the community, parents are comfortable with this kind of approach.

DISSEMINATION OF DOCUMENTATION AND WAY FORWARD

The State party is committed to distributing and disseminating the Children's Charter as part of the general awareness programmes, in particular through the school curriculum. Further, Zambia is committed to giving effect to the provisions of the Children's Charter within the domestic legal regime through the various legislative, administrative, judicial and other processes.

In recent years, there have been important legislative developments relevant to the promotion and protection of children's rights. The State party invites the Committee to note that it will continue to review legislation and policy with a view to align it with international standards.

ANNEXES

LEGISLATION

The following are excerpts from the various pieces of legislation referred to in the State party report:

1. Adoption Act, Chapter 54 of the Laws of Zambia
2. Affiliation and Maintenance of the Children Act, Chapter 64 of the Laws of Zambia
3. Anti-Gender Based Violence, Act No. 1 of 2011
4. Anti-Human Trafficking, Act No. 11 of 2008
5. Births and Deaths Registration Act, Chapter 51 of the Laws of Zambia
6. Constitution of the Republic of Zambia
7. Education Act, No. 23 of 2011
8. Gender Equity and Equality, Act No. 22 of 2015
9. Immigration and Deportation Act, 2010
10. Juveniles Act, Chapter 53 of the Laws of Zambia
11. Legitimacy Act, Chapter 52 of the Laws of Zambia
12. Liquor Licensing Act No.20 of 2011
13. Matrimonial Causes Act, No. 20 of 2007
14. Penal Code, Chapter 87 of the Laws of Zambia
15. Persons with Disabilities, Act No. 6 of 2012
16. Prisons Act, Chapter 97 of the Laws of Zambia
17. Technical Education, Vocational and Entrepreneurship Training Authority Act, No. 13 of 1998

POLICIES, GUIDELINES AND STANDARDS

1. Alternative Care and Reintegration Guidelines, 2017
2. Early Child Education Policy, 2014
3. Minimum Standards of Care for Child Care Facilities
4. Nationwide Assessment Report on Child Care Facilities, 2017
5. National Child Policy, 2015
6. National Disabilities Policy, 2015
7. National Social Protection Policy, 2014
8. National Standards and Guidelines for Services and Programmes for Orphans and Vulnerable Children in Zambia, 2016

STATISTICS

Number of Children per year in the reporting period desegregated by sex in foster care, child Care facilities, juvenile correctional institutions and adoption.

