



**Submission from African Rights Monitor
to the Committee on the Elimination of All Forms of
Discrimination Against Women, July 2011, New York City**

*Related to the discussion of the country situation in Zambia
and its performance in upholding the
Convention on the Elimination of All Forms of Discrimination against
Women*

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INTRODUCTION AND RECOMMENDATIONS

The following submission to the CEDAW Committee has been completed by African Rights Monitor (ARM), a Washington, DC-based non-governmental advocacy organization created to monitor human rights violations in conflict and post-conflict African territories. With the understanding that democracy is underpinned by the participation of robust civil society, ARM strives to educate civil society groups on democracy, human rights and the rights of the press through workshops and seminars that address these issues as related to Africa. The organization aims to advocate for the protection of human rights in African countries by investigating and exposing human rights violations and holding abusers accountable for their inhumane actions. ARM can be contacted by telephone at (+1) 202.642.4493, or through mail at 125 S. Reynold St Apt #J501, Alexandria, VA, 22304, United States of America.

African Rights Monitor (ARM) has recently focused on the precarious situation for human rights in Zambia. The policies that the government of Zambia has implemented show that it desires to improve the status of women. However, the main issues that prevent the government to fulfill its obligations under the treaty is the dual legal system in the country (statutory and customary law) and the gap between de jure and de facto implementation. The Government of Zambia needs to focus on creating laws that are practical to implement, monitor and enforce.

After ARM reviewed the CEDAW report submitted by the Government of Zambia and conducted research, it felt that a few recommendations are necessary to point out.

Initially, as the Government of Zambia acknowledges several times in their official report to the CEDAW Committee, the nation's dual legal system is an obstacle in achieving successful policies. In many areas such as property ownership, property heritage, marriage, and divorce, the customary law contradicts the national law and the government's policies. In such cases, the customary law takes precedence when local judges rule.

Recommendation 1: *ARM strongly recommends that the government either codifies the customary law and harmonizes it with the national one or ensures that in cases when the two laws contradict, the national law takes precedence over the customary.*

In addition, the national legal framework is still developing and as the government acknowledges, public servants at several levels do not see women's rights as an urgent and important concern.

Recommendation 2: *Therefore, we recommend that the government adopts quota systems during local and national elections for the number of women that participate in parliament and other governmental posts to increase, train consistently and continuously the local and national judges in issues of human and women's rights and maintain an open and meaningful dialogue with the local leaders on legal developments.*

As ARM's research points out in this report, there is a discrepancy in policies and practices between urban and rural areas. Consequently, one uniform policy achieves different results in both areas.

Recommendation 3: *As the majority of women work in the informal sector of agriculture, ARM recommends to the Government of Zambia to implement laws that are meaningful within the rural context of the lives of people.*

Since women in Zambia represent about 52% of the population¹, it is important that they have access to opportunities for employment in the formal sector.

Recommendation 4: *ARM encourages the Government of Zambia to work closely with the private sector in order to create beneficial policies and jobs for the women participating in the labor market.*

Early marriage, especially in the rural areas, is of great concern to ARM.

Recommendation 5: *The Government of Zambia is strongly encouraged to monitor and protect children who are betrothed at an early age and enforce policies and incentives for young girls to attend secondary school.*

Another issue of great concern is that of violence.

Recommendation 6: *ARM recommends the Government to do more to create an awareness campaign to educate the public on the negative side effects of this phenomenon. ARM further suggests that the Government review its judicial procedures and make them more accessible to victims of violence.*

METHODOLOGY OF WORK

¹ Central Intelligence Agency. 2010. The World Factbook: Zambia.
<https://www.cia.gov/library/publications/the-world-factbook/geos/za.html>. Accessed on June 24, 2011.

African Rights Monitor has completed this submission after extensive background research into all available data collected in the last decade by UN bodies, academia, and NGOs regarding the situation of women in Zambia. The writing of the report relied mainly on firsthand reporting of events as transmitted to civil society organizations, academia, the United Nations (UN), and government sources.

Statistical information and analyses of State programs and policies were retrieved mostly from reports produced by Demographic and Health Surveys (DHS), in addition to UN and other academic and civil society sources. The unique role ARM is able to offer in producing this report is to comprehensively present these accounts, offering commentary based on understanding and knowledge about the nation within the legal framework which were used to form the main substantive part of this text. ARM has put this information together to evaluate the policies that the Government of Zambia has implemented in the last decade and their effect on the lives of women in the country. ARM hopes that this research report will assist the Commission to arrive to the necessary recommendation for Zambia.

Article 1: Definitions of Discrimination against Women

The Zambian Constitution guarantees the formal equality between women and men. However, Article 23 (4) (c) reserves the right for the government to enact discriminatory laws or practices with respect to family and personal law concerning women². After reading the report that the Government of Zambia submitted to the CEDAW committee, the lives of women are harmed by the practices that are common under the customary and statutory laws in regard to marriage, property ownership, heritage, and violence. Consequently, the Government of Zambia has not implemented a consistent and comprehensive definition of discrimination against women in its legal and judicial system. This has affected the level of success that the government will have in fulfilling its obligations to the CEDAW treaty.

Article 2: Obligation to Eliminate Discrimination against Women

² World Organization Against Torture. 2002. *Violence against Women in Zambia*. Geneva, Switzerland . pg 11.

Under article 2, CEDAW signatories agree to condemn all forms of discrimination against women and pursue necessary policies to eliminate such discrimination.³ In its report, Zambia's official report highlights the steps that the government has taken to fulfill this obligation. The steps mentioned in the report are: updating the Penal Code to include harsher punishment for sexual offenders and inquiring and collecting views on what issues on human rights and gender equality the future constitution of the country should address.⁴

Nevertheless, Zambia government acknowledges the difficulties that it has faced so far in fully implementing this article: i) current legislation does not adequately address all gender based violence and ii) illiteracy rate among women prevents them from accessing their rights.⁵

Zambia has ratified several international treaties. It ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1985 with no reservation. It has also ratified the Rights of the Child (CRC), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Elimination of Racial Discrimination (CERD). It has also ratified a few conventions on labour discrimination and forced labour⁶.

However, Zambia has a dualistic legal system consisting of customary and statutory laws, which creates contradictory legal practices. As the Government of Zambia develops its legal framework and judicial system to fulfill the obligations of the international treaties that it has ratified, it has to ensure that both legal systems are in harmony and support those legal laws and practices that do not discriminate against women. Until Zambia develops a thorough legal statutory and judicial system that reflects the values upheld by CEDAW, its obligation to eliminate discrimination against women will remain unfulfilled. Family laws are of a specific concern (as described in the following sections) to ARM where women struggle to have access to their rights. In other sections of this report, the discrimination against women in education, employment, property ownership and domestic violence is explained in more details.

Article 3: Development and Advancement of Women

³ *Convention on the Elimination of All Forms of Discrimination against Women*, Adopted and opened for signature, ratification and accession by General Assembly 18 December 1979, entry into force 3 September 1981,,Article 2.

⁴ Committee on the Elimination of Discrimination against Women, *Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Combined fifth and sixth periodic report of States parties: Zambia*, United Nations Convention on the Elimination of All Forms of Discrimination against Women CEDAW/C/ZMB/5-6, 18 January 2010, Article 2, pg 20-26.

⁵ *Ibid.* pg 26.

⁶ University of Minnesota. Human Rights Library. International Treaties – Zambia. <http://www1.umn.edu/humanrts/research/ratification-zambia.html>. Accessed on June 21, 2011.

Article 3 of CEDAW asks from the signatory state parties to ensure the full development and advancement of women and guarantee all women human rights, fundamental freedoms, and equality with men in all national arenas including political, social, economic and cultural realms.⁷ According to the report, the current Constitution of Zambia ensures all its citizens of their fundamental rights and the Industrial and Labour Relations Act protects employees from being discriminated due to their gender.⁸ In addition, the Zambian government reports to have taken several administrative steps:

- The creation of The Zambian Development Agency, which develops strategies to promote gender equality in “accessing, owning, managing, controlling and exploiting economic resources”.
- The Zambia Police Act is an amendment adapted to the general Zambia Police Act, which investigates complains against the police.
- A study done by Zambia Law Development Commission to investigate the discrepancies that exist between national legislation and customary law and how the latter differs among ethnic groups in Zambia. This study identified harmful practices that the government is not planning to promote. The report does not clarify what practices were found harmful among different ethnic groups.
- The establishment of the Parliamentary Committee on Legal Affairs, Governance, Human Rights and Gender Matters that monitors the governmental policies and practices relevant to women and children
- Zambia government ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children.⁹

In this area too, the government faces difficulties in fully fulfilling the obligations of the Article 3 of CEDAW. These difficulties consist of early marriage among girls, low literacy level among girls and women and negative customary practices against women.

Human Rights Watch reports that women face discrimination relating to property rights due to property grabbing (the unlawful appropriation of property upon the death of the husband) and unequal distribution of marital property to women who are divorced.¹⁰ According to customary

⁷ *Convention on the Elimination of All Forms of Discrimination against Women*, Adopted and opened for signature, ratification and accession by General Assembly 18 December 1979, entry into force 3 September 1981,,Article 3.

⁸ Committee on the Elimination of Discrimination against Women, *Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Combined fifth and sixth periodic report of States parties: Zambia*, United Nations Convention on the Elimination of All Forms of Discrimination against Women CEDAW/C/ZMB/5-6, 18 January 2010, Article 2, pg 28-32.

⁹ Committee on the Elimination of Discrimination against Women, *Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Combined fifth and sixth periodic report of States parties: Zambia*, United Nations Convention on the Elimination of All Forms of Discrimination against Women CEDAW/C/ZMB/5-6, 18 January 2010, Article 2, pg 32-37.

¹⁰ Human Rights Watch, *Zambia*, HRW, New York, February 2008, p. 2.

law, the property remains with the deceased man's family. Statutory law goes into detail and gives the right of the half of the estate to the children (to be shared equally), 20% to his widow and 20% to his parents and other dependents get the rest¹¹. This conflict between the two laws exposes women to property grabbing as such matters are decided in local courts where customary law is practiced.

Statistics collected in 1998, 2004 and 2006 show that the poverty level for female-headed households was higher than in the male-headed households. In the last year, 70% of the female-headed households lived below the national poverty line compared with 63% of the male-headed households living in similar conditions¹².

Literacy rates for 15 to 24 years old are higher for men (82.5%) than women (67.6%)¹³. This low figure in literacy points out to the difficulties that women will face in advancing in their life.

Another practice that hinders the advancement of women in Zambia is the acceptance of domestic violence and the lack of confidence in law enforcement personnel¹⁴. Ill-treatment and abuse are considered as practices to be endured by the women. The Demographic and Health Survey found that the majority of the women interviewed (63.9%) agreed that a husband is justified in hitting or beating his wife for at least one specific reason¹⁵. In rural areas, this number was higher (66.4%) than in urban areas (55.7%)¹⁶. When men were asked the same question, 46.5% of the married man agreed and again, the number is higher in rural (54.4%) than urban areas (42.7%)¹⁷. When the women (total of 5,236) between the age of 15 – 49 were asked if they had ever experienced physical violence, 28% of the never married women, 51.6% of the married/living together women and 61.3% of the divorced/separated/widowed women said yes¹⁸. When this question was put in the context of rural versus urban, 50.2% of women in

¹¹ U.S. Department of State. 2010 Human Rights Report: Zambia.

<http://www.state.gov/g/drl/rls/hrrpt/2010/af/154376.htm>. Accessed on June 20, 2011.

¹² Van Klaveren, Maarten Tijdens, Kea, Hughie-Williams, Melanie and Nuria Ramos Martin. An overview of women's work and employment in Zambia: Decisions for life MDG3 project country report no. 4. University of Amsterdam, Amsterdam Institute for Advanced Labour Studies. September 2009, pg 22.

¹³ Central Statistical Office (CSO), Ministry of Health (MOH), Tropical Diseases Research Centre (TDRC), University of Zambia, and Macro International Inc. 2009. Zambia Demographic and Health survey 2007. Calverton, Maryland, USA: CSO and Macro International Inc. pg. xxviii.

¹⁴ World Organization Against Torture. 2002. *Violence against Women in Zambia*. Geneva, Switzerland . pg 24.

¹⁵ Central Statistical Office (CSO), Ministry of Health (MOH), Tropical Diseases Research Centre (TDRC), University of Zambia, and Macro International Inc. 2009. Zambia Demographic and Health survey 2007. Calverton, Maryland, USA: CSO and Macro International Inc. pg 264.

¹⁶ Ibid., pg 264.

¹⁷ Ibid., pg 264.

¹⁸ Ibid., pg 277.

urban and 44.4% of women in rural areas responded positively¹⁹. This practice and culture leaves women vulnerable to danger, discrimination due to their gender and HIV infection²⁰.

Moreover, the practice of incest is prevalent in the country but it goes unreported because the person committing such crime is an economic provider to the family of the victim²¹. Even in cases that are reported, studies and NGOs have noticed that the police and law enforcement personnel do not provide protection to the victim and her family and do not facilitate the process as the law endorses²².

Article 4: Acceleration of Equality between Women and Men

Zambia government reports that it has adopted a National Gender Machinery, which prioritizes five areas: 1) agriculture and land, 2) education, 3) governance, 4) health and 5) social protection²³.

On the legislative side, the government has continued to protect maternity within the Employment Act. On the administrative side, the government has continued to implement the National Gender Policy and the Strategic Plan of Action adopted in 2000 and has continued to provide financial incentives and encouragement for women to enroll in science and technical subjects²⁴.

The difficulties that the government acknowledges in the implementation of this article are the lack of interest in gender and development among public service providers and negative traditional practices that undermine equality between men and women²⁵.

As explained in the previous sections of this report, the customary law remains a big obstacle in achieving equality between women and men. Marriages of minors, divorce practices, payment of dowry (lobola), early marriages and practices of property division after the death of the husband are a few practices that need to be a priority for the Government of Zambia if it wishes

¹⁹ Ibid., pg 277.

²⁰ World Organization Against Torture. 2002. *Violence against Women in Zambia*. Geneva, Switzerland . pg 20.

²¹ Ibid., pg 23.

²² Ibid., pg 23.

²³ Committee on the Elimination of Discrimination against Women, *Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Combined fifth and sixth periodic report of States parties: Zambia*, United Nations Convention on the Elimination of All Forms of Discrimination against Women CEDAW/C/ZMB/5-6, 18 January 2010, Article 4, pg 43.

²⁴ Ibid., pg 43.

²⁵ Ibid., pg 45.

to accelerate the equality process between genders. According to Zambia's 2007 DHS report, 17% of women between the age of 15 and 19 are married compared with 1% of men at the same age range²⁶. This practice has implications for women's education level, health and quality of life.

Literacy rates for 15 to 24 years old are higher for men (82.5%) than women (67.6%)²⁷. This is something that the government needs to continue to address in its future policies.

These few instances show that the obligation of the Government of Zambia to fulfill the requirement on equality between men and women has a long way to go. Equality cannot be achieved if women are not equal to men in family, education and literacy and political life.

The codification of the customary law and the consistent training of judges in human rights legal developments will facilitate such process²⁸. In addition, ARM suggests that the Government of Zambia create and maintain an open dialogue with the community leaders about gender and human rights issues in order to involve a bigger audience in the process of achieving equality. The more local leaders and people get involved, the better chances for the government to draw interest and attention to women's issues and concerns.

Article 5: Sex Roles and Stereotypes

The government of Zambia has taken administrative measures in fulfilling the obligations of this article. It reports that it has adopted a National Cultural Policy in 2003 to preserve positive cultural norms, issuing of a study on the restatement of customary laws, incorporating human rights teaching in academic textbooks, training local court justices on positive customary laws, increasing the number of temporal and permanent classrooms, facilitating the establishment of community radio stations and providing civic education to traditional leaders²⁹.

²⁶ Central Statistical Office (CSO), Ministry of Health (MOH), Tropical Diseases Research Centre (TDRC), University of Zambia, and Macro International Inc. 2009. Zambia Demographic and Health survey 2007. Calverton, Maryland, USA: CSO and Macro International Inc. pg 91.

²⁷ Central Statistical Office (CSO), Ministry of Health (MOH), Tropical Diseases Research Centre (TDRC), University of Zambia, and Macro International Inc. 2009. Zambia Demographic and Health survey 2007. Calverton, Maryland, USA: CSO and Macro International Inc. pg xxvii.

²⁸ World Organization Against Torture. 2002. *Violence against Women in Zambia*. Geneva, Switzerland . pg 11.

²⁹ Committee on the Elimination of Discrimination against Women, *Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Combined fifth and sixth periodic report of States parties: Zambia*, United Nations Convention on the Elimination of All Forms of Discrimination against Women CEDAW/C/ZMB/5-6, 18 January 2010, Article 5, pg 46 - 47.

Nevertheless, the negative cultural practices, limited access to community radio stations in remote areas and the location of human rights organization mostly in urban areas are some of the difficulties it faces in implementing this article³⁰.

The incidence of rape in the country can indicate the stereotype that exists for men and women. In 2009, the ZPS's Victim Support Unit recorded 244 cases of rape, 60 cases of attempted rape and 188 cases of indecent assault (total of 492 cases). After these cases were reported, 111 defendants were convicted, 22 were acquitted and 25 cases were withdrawn (total of 158)³¹. These cases do not include marital rape since it is not prohibited by law. In addition, the incidence of violence very often it is not reported. As the Demographic and Health Survey has found, wife beating is viewed as acceptable from the women and men in the Zambian society; women that are educated, wealthier and never married are less likely to view wife beating as acceptable³². About 62% of the female survey participant and 48.2% of the male ones viewed wife beating as an acceptable behavior³³.

Aggressive physical and emotional actions against women reflect how women are perceived and their prevalence shows women's vulnerability due to their legal, social and economic status in Zambia.

Article 6: Prostitution and Traffic in Women

Zambia's Penal Code has criminalized prostitution – the intimidation of people in order to participate in it, people living on earnings from prostitution, providing rooms and houses for it and conspiring to involve people in it³⁴.

In addition, the government of Zambia has established an Inter-ministerial Committee on Trafficking whose goal is to develop a preliminary national plan of action for this problem³⁵.

³⁰ Ibid., pg 48 – 49.

³¹ U.S. Department of State. 2010 Human Rights Report: Zambia.

<http://www.state.gov/g/drl/rls/hrrpt/2010/af/154376.htm>. Accessed on June 20, 2011.

³² Central Statistical Office (CSO), Ministry of Health (MOH), Tropical Diseases Research Centre (TDRC), University of Zambia, and Macro International Inc. 2009. Zambia Demographic and Health survey 2007. Calverton, Maryland, USA: CSO and Macro International Inc. pg 263.

³³ Ibid., pg 264 - 265.

³⁴ Committee on the Elimination of Discrimination against Women, *Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Combined fifth and sixth periodic report of States parties: Zambia*, United Nations Convention on the Elimination of All Forms of Discrimination against Women CEDAW/C/ZMB/5-6, 18 January 2010, Article 6, pg 52.

³⁵ Ibid., pg 53.

Despite the steps that the government of Zambia has taken so far, it does recognize that its own legislation and available services and facilities to the victims are inadequate, victims are unwilling to offer themselves for rehabilitation and there is a lack of research and information of the trafficking³⁶.

Zambia is identified as a “transit and destination country for men, women and children subjected to forced labor and forced prostitution”³⁷. According to the Trafficking in Person Report 2010, Zambian trafficked victims are found in South Africa, the Democratic Republic of the Congo and Namibia³⁸. Besides the immigrants recruited from China and India working in Zambia’s Copperbelt region, child domestic workers are very often subjected to abuse and forced labor³⁹. According to the same report, the Government of Zambia does not fully comply yet with the minimum standards for the elimination of trafficking although it asserts that it is working hard to do so⁴⁰. The Government’s efforts in prosecuting people involved in trafficking have shown some success. The penalties under the law for being involved in trafficking assign from 25 years of imprisonment to life in prison. Two men were successfully prosecuted in 2009 for selling their children to Tanzanian traffickers and nine more people were waiting to be prosecuted under similar charges⁴¹. In collaboration with NGOs in 2009, the Government of Zambia continued its efforts to raise awareness about this issue⁴². However, the development of the Penal Code to provide a framework under which prosecutors can provide evidence to prove intent to exploit victims for forced prostitution and labor is very important. So far, this framework does not exist⁴³.

Article 7: Political and Public Life

The Government of Zambia reports that at the parliamentary level, 106 women were candidates in the 2006 General Election. Twenty-two of these were elected as Members of Parliament⁴⁴. The Zambian Constitution and Electoral System guarantee the equal participation of women and

³⁶ Ibid, pg 54.

³⁷ U.S Department of State. (ed. 10). Trafficking in Person Report 2010.

<http://www.state.gov/documents/organization/142979.pdf>. Accessed on June 10, 2011. pg. 353.

³⁸ Ibid., pg 353.

³⁹ Ibid., pg 353.

⁴⁰ Ibid., pg 354.

⁴¹ Ibid., pg 354.

⁴² Ibid., pg 354.

⁴³ Ibid., pg 354.

⁴⁴ Committee on the Elimination of Discrimination against Women, *Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Combined fifth and sixth periodic report of States parties: Zambia*, United Nations Convention on the Elimination of All Forms of Discrimination against Women CEDAW/C/ZMB/5-6, 18 January 2010, Article 7, pg 56.

men in running for public office and voting⁴⁵. On the administrative side, the National Gender Policy emphasizes the importance of gender representation through affirmative action⁴⁶. However, the report does not outline any affirmative action measures nor does it delineate any plans for instituting such policies in the future. The Government's report does recognize that the lack of quota systems contributes to women not participating strongly at levels of decision making. It also recognizes that gender biased views, negative traditional practices and the poor socio-economic status prevent women from fully accessing the right to participate in public life⁴⁷.

According to the Online Millennium Development Goal Information from 2010, only 14% of the seats in parliament are occupied by women⁴⁸. In addition, less than 10% of women in Zambia are involved in the political decision-making process⁴⁹. This is not a good representation of the more than half of the population in Zambia. Inclusive policies such as quotas are important to be required in order to increase women's participation in this field.

Article 8: International Representation and participation

The Government of Zambia reports this data on the participation of women in foreign missions:

Table1: Female Representation in Foreign Missions⁵⁰

Ambassadors	5
Minister Councillor	1
Councillors	4
Vice – Councillor	1
First Secretary	12

⁴⁵ Ibid. pg 58.

⁴⁶ Ibid., pg 62.

⁴⁷ Ibid., pg 63.

⁴⁸Database MDG Info 2010, Zambia/Proportion of seats held by women in parliament. <http://www.devinfo.info/mdginfo2010/>. Accessed June 8, 2011.

⁴⁹ World Organization Against Torture. 2002. *Violence against Women in Zambia*. Geneva, Switzerland . pg 16.

⁵⁰ Committee on the Elimination of Discrimination against Women, *Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Combined fifth and sixth periodic report of States parties: Zambia*, United Nations Convention on the Elimination of All Forms of Discrimination against Women CEDAW/C/ZMB/5-6, 18 January 2010, Article 8, pg 64.

The Government explains that this is remarkable improvement from the previous report where only two women were serving as head of missions⁵¹. Moreover, the Government has established a database of qualified women for local or international appointments⁵². However, the Government recognizes the low level of education among women in Zambia that prevents them from qualifying and seeking positions in foreign missions⁵³.

Again, as more opportunities are given to women to participate in decision-making and political life of their country, more of them will gain the expertise and skills to participate in foreign services for Zambia. However, these opportunities are missing so far.

Article 9: Nationality

The Government of Zambia states that Zambian spouses married to foreign nationals have access to equal procedures and opportunities for acquiring Zambian citizenship for their spouses⁵⁴. On the judicial side, the High Court of Zambia ruled in the case of Edith Zewelani Nawakwi vs Attorney General 1990/HP/1724 that the mothers do not need the consent of the father to issue passports or travel documents for her children⁵⁵. On the administrative side of this law, both sexes are required to reside in Zambia for 10 years before applying for Zambian citizenship⁵⁶.

However, de jure discrimination against women continues to occur: to the Zambian Immigration Act grants immediate residency to the spouses of Zambian men with the opportunity to apply for citizenship after 10 years. However, this provision does not mention the same privileges for Zambian women who are married to foreign nationals⁵⁷. More data and information is needed on this topic to determine the prevalence of such discrimination.

⁵¹ Ibid., pg 64.

⁵² Ibid., pg 65.

⁵³ Ibid., pg 66.

⁵⁴ Committee on the Elimination of Discrimination against Women, *Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Combined fifth and sixth periodic report of States parties: Zambia*, United Nations Convention on the Elimination of All Forms of Discrimination against Women CEDAW/C/ZMB/5-6, 18 January 2010, Article 9, pg 67.

⁵⁵ Ibid., pg 69.

⁵⁶ Ibid., pg 69.

⁵⁷ World Organization Against Torture. 2002. *Violence against Women in Zambia*. Geneva, Switzerland . pg 11.

Article 10: Education

The gender issues in the education system in Zambia are addressed through the Equity and Gender Component of the Ministry of Education established in 1998⁵⁸. Zambia is close to achieving gender parity in grades 1-7, where girls were representing 49% of the total enrollment in 2005⁵⁹. The enrollment of girls in basic education is growing steadily but the government recognizes that the boys have better access to education than girls⁶⁰. Here are some statistics that the Government of Zambia reports:

Table 2: Completion Rates at Basic School⁶¹

Year	2002		2003		2004		2005	
Sex	M	F	M	F	M	F	M	F
National	17.4%	11.6%	18.0%	13.0%	18.4%	13.0%	20.1%	15.0%

Table 3: Drop out Rates by Sex and Year⁶²

Year	2001		2002		2003		2004		2005	
Sex	M	F	M	F	M	F	M	F	M	F
Gr 1-9	3.9%	4.3%	3.4%	3.9%	2.4%	2.9%	2.5%	3.4%	2.09%	2.98%
Gr 10-12	1.4%	2.0%	1.5%	2.3%	1.1%	2.3%	1.5%	2.9%	1.25%	2.9%

Table 4: Enrolment in Colleges by Sex and Year⁶³

Year	2003		2004		2005	
Sex	M	F	M	F	M	F
Enrollment	2,815	2,930	4,260	4,503	5,632	7,178
Total	5,745		8,763		12,810	

The Government of Zambia adopted the Free Education Policy in 2002 to facilitate the enrollment of children in schools. This policy provides incentives for children to attend school such as scholarship availability for girls, abolition of school fees for grade 1 – 7, optional uniforms, School Health and Nutrition programmes for vulnerable children and so on⁶⁴.

⁵⁸ Committee on the Elimination of Discrimination against Women, *Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Combined fifth and sixth periodic report of States parties: Zambia*, United Nations Convention on the Elimination of All Forms of Discrimination against Women CEDAW/C/ZMB/5-6, 18 January 2010, Article 10, pg 72.

⁵⁹ Ibid., pg 73.

⁶⁰ Ibid., pg 72.

⁶¹ Ibid., pg 74.

⁶² Ibid., pg 75.

⁶³ Ibid., pg 76.

⁶⁴ Ibid., pg 78 – 82.

However, some obstacles remain on the way to universal enrollment of girls (and boys): early marriages and pregnancies, inadequate sanitary facilities, HIV/AIDS pandemic in the country and inadequate infrastructure⁶⁵.

It is important to note that Zambia's DHS report of 2007 found that the higher the level of education for the woman, the lower was her fertility rate (no education – 10.8; primary - 12.4; secondary – 8.1; more than secondary – 7.2)⁶⁶. In addition, the same report found that the average age at marriage is higher (24.4 years) for women with more than secondary education than the women with no education (17.3 years)⁶⁷.

Literacy rates for 15 to 24 years old are higher for men (82.5%) than women (67.6%)⁶⁸. This is something that the government needs to continue to address in its future policies.

There are rural and urban differences in education levels. The numbers are both low for both genders but lower for women. In urban areas, 7% of girls and 11% of boys had completed the secondary level whereas in rural areas, 2% of boys and 1% of girls had done so⁶⁹. When measuring no education, 27% of girls and 18% of boys fit in this category⁷⁰.

Article 11: Employment

The Government of Zambia reports that out of the total labour force of 4,918,788, the unemployment rate was 16% in 2005⁷¹. 88% of the total labour force is employed in the informal sector⁷². In addition, the Government reports that the formal employment sector has been diminishing and the women have not only been affected by the lack of opportunities in this sector but also have been exposed to low pay and less productive jobs in the informal sector⁷³.

⁶⁵ Ibid, pg 83 – 84.

⁶⁶ Central Statistical Office (CSO), Ministry of Health (MOH), Tropical Diseases Research Centre (TDRC), University of Zambia, and Macro International Inc. 2009. Zambia Demographic and Health survey 2007. Calverton, Maryland, USA: CSO and Macro International Inc. pg 57.

⁶⁷ Ibid., pg 58..

⁶⁸ Ibid., pg xxvii.

⁶⁹ Ibid., pg 16.

⁷⁰ Ibid., pg 16.

⁷¹ Committee on the Elimination of Discrimination against Women, *Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Combined fifth and sixth periodic report of States parties: Zambia*, United Nations Convention on the Elimination of All Forms of Discrimination against Women CEDAW/C/ZMB/5-6, 18 January 2010, Article 11, pg 88.

⁷² Ibid., pg 88.

⁷³ Ibid., pg 88.

The Constitution of Zambia prohibits discrimination in employment⁷⁴. Administratively, the Government of Zambia has implemented a Gender Policy in Science and Technology to promote girl's participation in the field of science and technology and workplace HIV/AIDS programmes to facilitate the impact of this epidemic to the labour force⁷⁵.

Such policies (although positive and well-intended) can be very limited in their success because the equality in employment principle of the Constitution is not adequately enforced⁷⁶. Women who were employed were found to suffer from inequality in pay, among other things⁷⁷.

According to our research, female unemployment is higher than that of male's, 17% and 14% respectively⁷⁸. The urban female unemployment (36%) is higher than the rural one (10%)⁷⁹. This research claims that the lack of employment is not necessarily from the lack of skills but from the lack of job opportunities⁸⁰. Another disadvantage that women in Zambia face in the employment sector is that women in some employment sectors are paid less than their male counterparts for the same work and that the majority of women segregate in low wage and low skills sectors of employment⁸¹.

The Demographic and Health Survey has found that employment increased with age among women from 44% among women age 15 to 19 to 75% among women age 45-49⁸². This survey also found that four out of 10 employed women (38%) decided themselves how to spend their income, 41% of women decide jointly with their husbands and 21% had their husbands decide⁸³.

Regarding the private sector, women hold less than 10% of the senior managerial positions⁸⁴. This is another indicator that shows the difficulty that women have to employment opportunities and advancement.

⁷⁴ Ibid., pg 89.

⁷⁵ Ibid., pg 91 - 92.

⁷⁶ U.S. Department of State. 2010 Human Rights Report: Zambia.

<http://www.state.gov/g/drl/rls/hrrpt/2010/af/154376.htm>. Accessed on June 20, 2011.

⁷⁷ Ibid., pg.

⁷⁸ Van Klaveren, Maarten Tjijdens, Kea, Hughie-Williams, Melanie and Nuria Ramos Martin. An overview of women's work and employment in Zambia: Decisions for life MDG3 project country report no. 4. University of Amsterdam, Amsterdam Institute for Advanced Labour Studies. September 2009, pg 16.

⁷⁹ Ibid., pg 16.

⁸⁰ Ibid., pg 16.

⁸¹ Ibid., pg 17.

⁸² Central Statistical Office (CSO), Ministry of Health (MOH), Tropical Diseases Research Centre (TDRC), University of Zambia, and Macro International Inc. 2009. Zambia Demographic and Health survey 2007. Calverton, Maryland, USA: CSO and Macro International Inc. pg 255.

⁸³ Ibid., pg 256.

⁸⁴ World Organization Against Torture. 2002. *Violence against Women in Zambia*. Geneva, Switzerland. pg 15.

In addition, women lack adequate access to credit to purchase land or property as they are guaranteed under the policy of Ministry of Land's quota system to encourage women to own property⁸⁵. The Government of Zambia should not only adopt policies that sound good but make sure that their implementation is enforced and guaranteed.

Article 12: Health

The Government of Zambia reports that the immunization rate in the country reached 90% in 2005, a significant increase from 74% in 2003⁸⁶. Also, the family planning services have reached 34% of women aged 15 – 49 years in 2002, an improvement from the past⁸⁷.

However, maternal mortality ratio remains a problem claiming 729 per 100,000 live births in 2002. This was an increase from 1996, which it is attributed to a high percentage of unskilled home deliveries, limited access to health facilities and maternity wards, lack of transportation to health facilities and poor quality of care⁸⁸. Teenage pregnancy remains a problem, specifically in rural areas⁸⁹. The antenatal coverage was also found to have declined in 2005⁹⁰.

Malaria is another health problem acknowledged by the government and accounts for 20% of maternal morbidity and mortality⁹¹. Moreover, HIV/AIDS rate among Zambians is 16%⁹². In urban areas, 60% of the new infections were due to heterosexual relations within marriage or cohabitation⁹³.

The Government of Zambia has taken several steps to address all the health concerns among which are: adaptation of the Mental Health Policy to address the mental issues among patients, establishments of health posts to improve access of health services, adaptation of the "Roll Back

⁸⁵ Zambia National Land Alliance. 2002. Women's Land Rights in Zambia: policy provisions, legal framework and constraints. Paper presented at the Regional Conference on Women's Land Rights held in Harare, Zimbabwe in May 2002. pg 7.

⁸⁶ Committee on the Elimination of Discrimination against Women, *Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Combined fifth and sixth periodic report of States parties: Zambia*, United Nations Convention on the Elimination of All Forms of Discrimination against Women CEDAW/C/ZMB/5-6, 18 January 2010, Article 12, pg 94.

⁸⁷ *Ibid.*, pg 94.

⁸⁸ *Ibid.*, pg 94.

⁸⁹ *Ibid.*, pg 95.

⁹⁰ *Ibid.*, pg 95.

⁹¹ *Ibid.*, pg 96.

⁹² *Ibid.*, pg 96.

⁹³ UNAIDS. 2011. Global Report: UNAIDS report on the global AIDS epidemic: 2010. New York. pg 30

Malaria Initiative” that aims at improving access to chemo prophylaxis to pregnant women, expansion of maternity wards and strengthening HIV programmes⁹⁴.

According to Zambia’s 2007 Demographic and Health Survey data, 91% rural women receive antenatal care compared with 99% of urban women⁹⁵. This report also found that education level is directly associated with a higher access to antenatal care⁹⁶.

The fertility rate is high in Zambia (6.2 children on average) due to high infant mortality (under 5 years old mortality rate is 116 per 1,000 live births)⁹⁷. There is a difference in fertility rates between urban and rural areas, 4.3 and 7.5 respectively. Since the fertility rate is much higher in rural areas, it is crucial that the future policies to improve neonatal care reflect this discrepancy and urgency. Also, the fertility rate cannot decrease unless the infant mortality rate is reduced significantly in the future.

Another issue of concern is that of nutrition. A study in Zambia found that 59% of children and women fell in the malnutrition rate⁹⁸. Even though this is old data, the practices that contribute to this phenomenon are still practiced (such as baring women from eating certain foods such as eggs, milk and beef so they don’t turn into “bad” people, in addition to the practice of women and girls waiting to eat after men and boys).

A national concern is HIV/AIDS epidemic in the country where 14.3% of the adult population is affected⁹⁹. This affects women in many ways whether by taking care of the sick people or increasing the possibility of being raped due to the belief of HIV infected men being cured if having intercourse with a virgin¹⁰⁰. The country has 1.1 million orphaned children under the age of 17 where 600,000 of them are orphaned as a result of the epidemic. About one in five children under the age of 18 was not living with any parent¹⁰¹.

⁹⁴ Committee on the Elimination of Discrimination against Women, *Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Combined fifth and sixth periodic report of States parties: Zambia*, United Nations Convention on the Elimination of All Forms of Discrimination against Women CEDAW/C/ZMB/5-6, 18 January 2010, Article 12. pg 99.

⁹⁵ Central Statistical Office (CSO), Ministry of Health (MOH), Tropical Diseases Research Centre (TDRC), University of Zambia, and Macro International Inc. 2009. *Zambia Demographic and Health survey 2007*. Calverton, Maryland, USA: CSO and Macro International Inc. pg 124

⁹⁶ *Ibid.*, pg 124.

⁹⁷ *Ibid.*, pg 57, 123.

⁹⁸ World Organization Against Torture. 2002. *Violence against Women in Zambia*. Geneva, Switzerland . pg 18.

⁹⁹ UNAIDS. 2011. *Global Report: UNAIDS report on the global AIDS epidemic: 2010*. New York. pg 181.

¹⁰⁰ World Organization Against Torture. 2002. *Violence against Women in Zambia*. Geneva, Switzerland . pg 26.

¹⁰¹ Central Statistical Office (CSO), Ministry of Health (MOH), Tropical Diseases Research Centre (TDRC), University of Zambia, and Macro International Inc. 2009. *Zambia Demographic and Health survey 2007*. Calverton, Maryland, USA: CSO and Macro International Inc. pg 229.

Maternal health is also a very important topic. DHS found that the majority of women (94%) received antenatal care from a skilled provider during their last pregnancy. In urban and rural areas, 99% and 91.2% of women got professional antenatal care¹⁰².

Article 13: Social Security and Economic Benefits

The Government of Zambia reports that the pension is tied to formal employment¹⁰³. Because the majority of women are employed in the informal sector, women generally have no access to such benefit.

As stated in the Employment section of this report, the majority of women work in the informal sector. Here are some numbers that shows employment in 2005 from a total of 4,132 interviewed people:

Table 4: Employment by sector, industry and gender in Zambia (2005)¹⁰⁴

	Males			Females		
	Formal	Informal	Total	Formal	Informal	Total
Agriculture, fishing	21	1,453	1,474	8	1,501	1,509
Mining	38	14	52	1	3	4
Manufacturing	109	6	115	45	6	51
Electricity, gas, water supply	10	4	14	0	3	3
Construction	19	33	52	0	4	4
Trade, wholesale, retail	34	188	222	6	172	178
Restaurants, hotels	6	11	17	7	9	16
Transport, storage, communication	6	73	79	4	5	9
Finance, insurance, real estate	18	16	34	5	2	7

¹⁰² Ibid., pg 124.

¹⁰³ Committee on the Elimination of Discrimination against Women, *Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Combined fifth and sixth periodic report of States parties: Zambia*, United Nations Convention on the Elimination of All Forms of Discrimination against Women CEDAW/C/ZMB/5-6, 18 January 2010, Article 13, pg 102.

¹⁰⁴ Van Klaveren, Maarten Tjinders, Kea, Hughie-Williams, Melanie and Nuria Ramos Martin. An overview of women's work and employment in Zambia: Decisions for life MDG3 project country report no. 4. University of Amsterdam, Amsterdam Institute for Advanced Labour Studies. September 2009, pg 15.

Community, social, personal services	98	53	151	61	76	137
Not stated	0	2	2	0	0	0
Total	359	1,855	2,214	137	1,781	1,918

As the table above shows, the majority of women work in agriculture and trade, both of which are informal sectors. This means that they do not collect any benefits that are guaranteed by the law. However, more data and information is needed to know the specifics of this issue.

Article 14: Special Programme for Rural Women

According to the CEDAW report, the government reports that women represent 51.1% of the rural population, of whom 94% work in the agriculture sector¹⁰⁵. However, women lack access to markets, control over their land and access to credit¹⁰⁶. Despite the legal and administrative measurements that the Government of Zambia has implemented, women remain at a difficult position as farmers and members of their community.

In rural areas, women get access to land through their husbands. However, in case of divorce or death, they return to their natal families and become dependent of their family. Women acquire no right of their own over the land of former husbands¹⁰⁷. This practice adds to the poverty level of women and female-headed households.

The sections on Development and Advancement of Women, Education, Health and Marriage above have disaggregated data which compare the situation of women in urban versus rural areas. These sections show clearly that women in rural areas are in a bigger disadvantage than the urban women of Zambia. More policies within the context of rural life need to be implemented to change this scenario.

Article 15: Equality before the Law and in Civil Matters

¹⁰⁵ Committee on the Elimination of Discrimination against Women, *Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Combined fifth and sixth periodic report of States parties: Zambia*, United Nations Convention on the Elimination of All Forms of Discrimination against Women CEDAW/C/ZMB/5-6, 18 January 2010, Article 14, pg 113.

¹⁰⁶ Ibid., pg 114.

¹⁰⁷ Zambia National Land Alliance. 2002. Women's Land Rights in Zambia: policy provisions, legal framework and constraints. Paper represented at the Regional Conference on Women's Land Rights held in Harare, Zimbabwe in May 2002. pg 9.

The Constitution of Zambia does not have any restrictions to either gender, according to the report¹⁰⁸. The Government of Zambia describes the Legal Aid chapter of laws that provide litigation assistance to people without sufficient funds and the High Court Act, which emphasizes the principle of natural justice of the common law¹⁰⁹. Some of the mentioned steps implemented by the Government of Zambia to implement Article 15 are: the implementation of National Gender Policy, the establishment of Human Rights Commission and the continuation of the National Legal Aid Clinic for Women¹¹⁰.

Some of the obstacles that the government faces in achieving the full implementation of this article are the duality of the legal system, lack of knowledge of the justice system, lack of awareness among women about their rights and inadequate staffing in the Legal Aid Department and Human Rights Commission¹¹¹.

Despite the positive steps that the Government of Zambia has taken towards this issue, often women are restricted to exercise their right of demanding justice in courts due to gender. According to custom, it is the responsibility of the parents to sue a person for getting their daughter pregnant¹¹². The girl cannot bring such charges against her perpetrator even though she is the victim.

As Zambia's CEDAW report states consistently, the customary law discriminates often against women especially in matters of property, marriage, sexual cleansing, violence and inheritance¹¹³. More information on these topics is given in the respective sections.

Article 16: Equality in Marriage and Family Law

¹⁰⁸ Committee on the Elimination of Discrimination against Women, *Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Combined fifth and sixth periodic report of States parties: Zambia*, United Nations Convention on the Elimination of All Forms of Discrimination against Women CEDAW/C/ZMB/5-6, 18 January 2010, Article 15, pg 119.

¹⁰⁹ *Ibid.*, pg 121.

¹¹⁰ *Ibid.*, pg 123 – 124.

¹¹¹ *Ibid.*, pg 124 -125.

¹¹² Committee on the Elimination of Discrimination against Women, *Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Combined fifth and sixth periodic report of States parties: Zambia*, United Nations Convention on the Elimination of All Forms of Discrimination against Women CEDAW/C/ZMB/3 - 4, 18 January 1994, Article 16, pg 17.

¹¹³ U.S. Department of State. 2010 Human Rights Report: Zambia.

<http://www.state.gov/g/drl/rls/hrrpt/2010/af/154376.htm>. Accessed on June 20, 2011.

In the report, the Government of Zambia states that family relations are governed by a dual legal system of statutory and customary laws¹¹⁴. The law sets the marriage minimum age at 21 years old for men and women¹¹⁵. In 2000, the High Court affirmed that the Zambian state recognizes a statutory marriage and any purported second marriage is considered a criminal offence¹¹⁶. However, there is a conflict between the customary and statutory law about the share of property and custody of children, where women are discriminated against under the statutory law¹¹⁷.

According to Zambia's 2007 DHS report, 17% of women between the age of 15 and 19 are married compared with 1% of men at the same age range¹¹⁸. This practice has implications for women's education level, health and quality of life. In addition, 14% of women reported that they were in polygynous relationships; 13% reported to have one co-wife and 2% reported to have more than two¹¹⁹. In addition, women with no education or low level of it and in the lower wealth quintiles were more prone to be in polygynous relationships¹²⁰.

Women have the role of the minor inside their family and/or clan structure. This prevents women from having justice in several important issues related to their body, physical security, property and divorce. According to custom, it is the responsibility of the parents to sue a person for getting their daughter pregnant¹²¹. The girl cannot bring such charges against her perpetrator even though she is the victim.

According to customary law on marriage, this social contract is not considered valid until a dowry (lobola) is paid to the family of the bride¹²². This is another practice that reduces women to a lower social status than the other members and exposes them to maltreatment and abuse.

¹¹⁴ Committee on the Elimination of Discrimination against Women, *Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Combined fifth and sixth periodic report of States parties: Zambia*, United Nations Convention on the Elimination of All Forms of Discrimination against Women CEDAW/C/ZMB/5-6, 18 January 2010, Article 16, pg 127.

¹¹⁵ Ibid., pg 128.

¹¹⁶ Ibid., pg 130.

¹¹⁷ Ibid., pg 131.

¹¹⁸ Central Statistical Office (CSO), Ministry of Health (MOH), Tropical Diseases Research Centre (TDRC), University of Zambia, and Macro International Inc. 2009. *Zambia Demographic and Health survey 2007*. Calverton, Maryland, USA: CSO and Macro International Inc. pg 91.

¹¹⁹ Ibid., pg 92.

¹²⁰ Ibid., pg 92.

¹²¹ Committee on the Elimination of Discrimination against Women, *Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women: Combined fifth and sixth periodic report of States parties: Zambia*, United Nations Convention on the Elimination of All Forms of Discrimination against Women CEDAW/C/ZMB/3 -4, 18 January 1994, Article 16, pg 17.

¹²² World Organization Against Torture. 2002. *Violence against Women in Zambia*. Geneva, Switzerland . pg 13.

Another practice that harms women inside the family unit is the practice of ritual purification where the surviving spouse has intercourse with a relative of the deceased¹²³. This practice is mostly practiced by the widowers.

¹²³ Ibid., pg 13.