

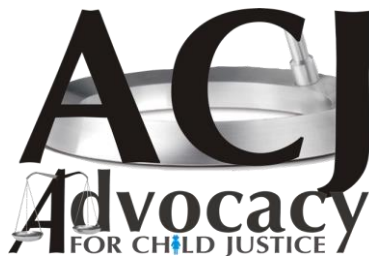
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# ZAMBIA

# LIST OF ISSUES

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The Simplified Reporting Procedure



**National Child Rights Forum Secretariat**

**Lusaka, Zambia**

**November 2019**

**FOR SUBMISSION TO:**

Committee on the Rights of the Child Secretariat

Office of the High Commissioner for Human Rights (OHCHR)

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Online submission: <https://www.childrightsconnect.org/upload-session-reports/>

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## *1 Acknowledgements*

The development of this report would not have been possible without the tireless efforts and consultation from various individuals and organisations that they represent. As Secretariat of the National Child Rights Forum, Advocacy for Child Justice wishes to sincerely thank:

- 1) Save the Children Zambia Country Office for their enduring technical and financial support.
- 2) Government Officials from respective line departments and ministries who participated in different activities cited in this report Members of the Forum, for their expert and critical review of the report.
- 3) Children in various situations and from the seven Provinces of Zambia named in this report for their candid contributions and observations, especially their stories and experiences shared.
- 4) Other Civil Society Organisations for their contributions in different activities cited in this report.
- 5) Members of the National Child's Right Forum who participated in the Compilation of the List of Issues Prior to Zambia's Reporting to the UPR in 2021

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## **2 INTRODUCTION**

While Zambia made strides in promoting and protecting the welfare of children by ratifying the United Nations (UN) Convention on the Rights of the Child (CRC), there still exist many lacunas in the domestic Laws in addressing many of the issues relating to children. With a very young population, 54% being children, the country has seen a general slackness in domesticating the provisions of agreed international Laws, which has affected the implementation of child related activities and at all levels. The situation has been made worse with the dominance of Customary Law, harmful cultural practices and beliefs, including a weak legal framework that is not aligned to international human rights standards.

Below contained herein are a list of issues prior to reporting (LOIPR) on Zambia's status of implementing the concluding observations and recommendations by the United Nations (UN) Committee on the Rights of the Child, which the State Party accepted in the second, third and fourth cycles of the Universal Periodic Review (UPR). This report seeks to address concerns and priorities that the Committee might consider in its review of Zambia's performance on the situation of children's rights in the country in its 2021 State party report.

The LOIPR 2019 Zambia was compiled by a joint submission by a cross-section of adults (Men-17,540, Women-22,189) and children (Boys-12,627, Girls-13,141) from seven (7) Provinces of Zambia and a coalition of 35 child-focused Not for Profit and or Non-Governmental and Civil Society Organisations (NGOs, CSOs) from six (6) Provinces, which collaborate to advocate for children's rights in the country. The development of the LOIPR 2019 was managed by Advocacy for Child Justice (ACJ), who are the Secretariat for the National Child Rights Forum (NCRF).

The preparation of LOIPR 2019 was preceded by the following activities between 2017 and October 2019:

1. An initial meeting of the members of NCRF at Save the Children Zambia offices, whose focus was understanding the Simplified Reporting Procedure, appreciating the road map for the State party into 2021, and strategizing on the role of Civil Society.
2. An engagement online meeting with children on Child rights related Sustainable Development Goals hosted by SCI in conjunction with Child Rights Connect in Geneva.
3. Seven (7) Provincial engagement meetings with children in Western, Southern, Central, Eastern, Copperbelt, Luapula and Lusaka.
4. Desk and online reviews
5. Several consultative meetings of Executive Directors and Programmes Officers of Child rights based CSOs.
6. Engagement meetings with special groups of children from both rural and urban areas: children living with HIV, children with disabilities, children with children, children living on the streets, children in marriages, children on the move, children living in abject poverty, children engaged in child labour, and child-headed households.

7. Engagement with the Parliamentary Caucus on Children for purposes of advocacy for the State party to fully implement the CRC in its legislation and practice.
8. Provincial dissemination workshops of the State party's second, third and fourth report and the child rights accepted recommendations by Zambia to its Third UPR cycle in five (5) provinces namely; Western, Southern, Lusaka, Luapula, and Copperbelt.

The Secretariat of the National Child Rights Forum can be contacted at **admin@acjzambia.org**.

### **3 GENERAL MEASURES OF IMPLEMENTATION (Arts. 4, 42 and 44 (6))**

#### **3.1 International Obligations and Ratifications of Children's Rights**

##### **1. Zambia has not ratified the 3 Optional Protocols to the CRC**

These 3 Optional Protocols act as a protective mechanism for the children, failure to ratify means the situation still leaves a weak and porous legal framework for the fulfilment and enjoyment of children's rights (ref. CRC/C/ZMB/CO/2-4/22990/E) as it exposes the children to the harms of trafficking, sexual exploitation, pornography and fails to provide adequate reporting structures for the children who have had their rights infringed upon.

##### **2. Zambia has not enacted all the changes of the child-related legislations recommended by the Zambia Law Development Commission and other stakeholders**

With regard to the Committee's recommendation that the State party continues to strengthen its efforts to review existing legislation and customary law with the aim of bringing them into conformity with the Convention, the Zambia Law Development Commission (ZLDC) in conjunction with other stakeholders and technical support from the United Nations Children's Fund (UNICEF) conducted an audit and review of child rights related legislation (customary law, Juveniles Act, Legitimacy Act, Education Act, Adoption Act, among others) identifying areas that needed to be consistent with the CRC. The NCRF is concerned that Zambia has not acted on most of these.

##### **3. Zambia's Ratification of International Agreements Act no.34 of 2016 has provisions that may act as barriers to the speedy ratification of international agreements.**

The NCRF is concerned about a new legislation, the Ratification of International Agreements Act no. 34 of 2016, which removes the responsibility to initiate ratifications of international agreements from the 'Ministry of Justice's Directorate of International Law and Agreements' to Minister responsible for the subject matter. Subsection (2) gives power to the Minister responsible of the subject matter, "to consider whether it is in the best interest of the State to ratify the international agreement" — subsection 3(1) of the Act above. This act may stall Zambia's speedy ratification of relevant international human rights instruments since children's rights are not only multi-but inter-disciplinary in nature and various Ministries/Ministers are responsible for different aspects of child rights. Secondly, the decision to ratify or not to ratify, should be in the interest of the rights holders (best interest of the child), rather than in the interest of the State, as a primary duty bearer. More concern is on subsections 4(b)(1)(2), 4(f), 4(g) and 4(h) requiring the Minister who initiates a ratification cabinet memorandum to take into consideration any constitutional implications including inconsistency of the international agreement with the Constitution, and to further state policy considerations and financial implications. As NCRF, we believe that consideration should be whether the Constitution of Zambia is consistent with the International Agreement in question because a national Constitution should always be in conformity with international human rights standards.

### **QUESTIONS**

- 1) *When will the State Party ratify the 3 Optional Protocols to the CRC to strengthen the legal framework for the fulfilment and enjoyment of children's rights in Zambia?*
- 2) *When will the State Party enact all the changes of the child-related legislations (customary law, Juveniles Act, Legitimacy Act, Education Act, Adoption Act, among others) as recommended by the audit and review conducted by the Zambia Law Development Commission and other stakeholders in order to make them consistent with the CRC?*
- 3) *The NCRF feels the provisions of the Ratification of International Agreements Act no.34 of 2016 may act as a barrier to the speedy ratification of international agreements. Can the State Party explain how this is in the best interest of the child?*

### **3.2 Legislation**

1. Zambia has not fully implemented the Constitution (Amendment) Act of 2016, including the operationalization of the children's Court.
2. Zambia has not enacted the expanded Bill of rights.
3. Zambia has stalled in enacting a comprehensive children's code bill.

It has taken 13 years process of consulting around the comprehensive children's code, impeding the implementation of children's rights intended to improve their situation.

4. Zambia has not enacted all the changes of the child-related legislations recommended by the Zambia Law Development Commission and other stakeholders

### **QUESTIONS**

- 1) *What actions has the State Party taken towards operationalising the children's courts in all Provinces?*
- 2) *When will the Bill of rights be enacted?*
- 3) *Zambia celebrates 30 years of the UNCRC this year, 2019. Why has Government stalled in enacting the children's code bill for 13 years if she claims to uphold and promote children's rights?*

### **3.3 Coordination**

1. Zambia has not enacted a bill to give effect to the establishment of the National Council for Child Services.

The NCRF observes that the State party's combined report to the Committee in 2016, reported that "consultations towards the formation of the National Council for Child Services were focused on the need to define the relationship between the Council and the National Steering Committee on Orphans and Vulnerable Children. This was done in order to avoid duplication of coordinating



activities. The functions of the National Council for Child Services are now clear in the Bill and no duplication is envisaged.”

However, NCRF is concerned that there has been no movement on this matter. Children’s rights violations are still not effectively addressed and perpetrators of sexual offences do not receive due punishment.

## 2. Zambia has not enacted the children’s code bill

The Children’s Code Bill aims to harmonise all pieces of legislation relating to the rights of the Child. Without its enactment the State Party jeopardises the effective streamlining of inter-ministerial processes that allow for the full protection and enjoyment of rights by Zambian children.

## 3. Zambia still has not made a distinction between the Ministries responsible for the implementation of the Convention.

The NCRF is further concerned at the lack of clarity of the mandate of the Ministries responsible for the implementation of the Convention.

### **QUESTION**

***1. What progress has been made on the establishment of the National Council for Child Services and when can the output be expected?***

## **4 DEFINITION OF A CHILD (Art. 1 of the Convention)**

### 1. The Constitution of Zambia (Amendment) Act 2016 definition of a child in the definitions section is ambiguous.

The NCRF is concerned about this ambiguity and that despite this age definition of a child, in the face of the Marriage Act, which establishes the age of marriage, 21, there is still a persistent practice of child marriage in the State party. We also note that the dual nature of the Zambian legal system poses a challenge as pertains child marriage despite the repugnancy clause in the new Constitution, which provides that Customary Laws can only be applied in as far as they are not inconsistent with morality or natural justice and not repugnant with the written Law. In addition, subsidiary laws still need to be aligned to this new definition provided for in the Constitution (2016) to foster harmony and consistency in implementation.

### **4.1 Expanded Bill of Rights**

#### 1. The NCRF is also concerned that Zambia is delaying the process of taking all necessary measures to expedite the enactment of the expanded Bill of Rights and the Children’s Code Bill in order to implement the definition of the child as any person who is under the age of age of 18 in accordance with the new Constitution and article 1 and other related principles and

provisions of the Convention and to implement in practice the minimum age of marriage at 18 years.

### **QUESTIONS**

- 1) *What is the State Party doing to sort out the ambiguity in the definition of a child contained in the Constitution?*
- 2) *What is the State party doing to harmonize the definition of the child with other subsidiary laws?*
- 3) *Following the failed referendum on the expanded Bill of Rights, does the State Party have any plans for a second referendum?*

## **5 GENERAL PRINCIPLES (Arts. 2, 3, 6 and 12 of the Convention)**

### **5.1 Non-discrimination**

1. In the State party, the principle of non-discrimination is still not adequately implemented with respect to children belonging to the most vulnerable groups.

The NCRF observes that the principle of non-discrimination – particularly in relation to access to health and education services, including discriminatory social and cultural practices, customary marriage disputes and inheritance – is still not adequately implemented with respect to children belonging to the most vulnerable groups such as girls, children with disabilities, children belonging to religious minorities, children living with HIV/AIDS, migrant and refugee children, orphans and children born out of wedlock.

In the State party, children with disabilities consulted still feel disregarded as they are often sidelined in the home, School and Health Centres and other similar set-ups on the basis of their disability/challenge. Indicating that these most vulnerable groups of children are discriminated against and there is still unequal access to education, basic health care and other welfare services for all children. An indication that their support is not prioritized in the State party's National Development Plans. More effort is required coupled with enactment of legislation to eliminate all forms of discrimination against children.

2. The State Party does not prioritize the placement of specialised teaching staff to cater for children with various disabilities such as those with sight, speech and hearing impairments.

### **5.2 Best interest of the child**

1. The NCRF notes that the Children's Code Bill and the National Child Policy include references to the best interest's principle. It is however concerned that the principle is not considered under Customary Law and by religious leaders in many areas of children's rights, particularly in rural areas in cases of inheritance, education and land allocation.
2. In the light of its general comment No 14 (2013) on the right of the child, to have his or her best interests taken as a primary consideration, Zambia applies minimal efforts to ensure that

this right is appropriately integrated and consistently applied in all legislative, administrative and judicial proceedings and decisions as well as in all policies, programmes and projects that are relevant to and have an impact on children; there are no procedures and criteria to provide guidance to all relevant persons in authority as well as traditional and religious leaders for determining the best interests of the child in every area and for giving it due weight as a primary consideration.

### *5.3 Respect for the views of the child*

1. The State party still does not consider the views of children concerning their welfare in various settings; they are not sufficiently captured in the process of drawing up national policy and law.

The NCRF is concerned that views of the child are not taken into account in various settings concerning children, including judicial, administrative procedures, at schools, at home, and particularly on issues such as child marriage, sexual and reproductive health.

2. The State party has not established a Children's Parliament as a way of increasing spaces for child participation in national governance and decision making processes.

The NCRF also notes that the Children's Parliament is not established yet to facilitate their effective engagement with national legislative processes and there are not enough spaces and structures for children's participation in decision-making on matters affecting them. Therefore, their views are not always heard.

3. There are low levels of awareness and knowledge of children's rights, responsibilities and obligations in most communities of the State party among children and other stakeholders.

The NCRF notes that Zambia still records high numbers of children ignorant of their rights and obligations that come with them. There is need for awareness-raising activities amongst children and other stakeholders to promote the meaningful and empowered participation of all children within the family, community and Schools, and in institutions and judicial and administrative proceedings.

#### ***QUESTIONS***

- 1) *What provisions has the State Party put in place for most vulnerable groups of children to access critical services such as health, education?*
- 2) *How is the State Party performing in eliminating all forms of discrimination against children particularly protecting them from discriminatory social and cultural practices, customary marriage disputes and inheritance?*
- 3) *What is the State Party doing to increase the number of specialists within institutions that offer services to children to ensure that those with disabilities are provided for?*
- 4) *How will the State Party ensure that there is consistency in all legislative, administrative and judicial proceedings in respect of the CRC's provisions for respecting the best interest of the child?*

- 5) *How is the State Party making sure that traditional practices and Customary Law are not infringing on the rights of the child and promoting the principle of the best interest of the child? Are any protection measures done by the State Party in terms of Policy, Law and practice?*
- 6) *What steps have been taken by the State Party to ensure capturing of the views of children at District, Provincial and National level through structures such Children's Councils and the Children's Parliament? What is Governments plan to own these structures for sustainability as opposed to relegating the responsibility to Civil Society?*
- 7) *Are there any national strategies by the Government to increase participation of children in decision-making on matters affecting their welfare; and raising the awareness of children's rights and the obligations that come with them?*

## 6 CIVIL RIGHTS AND FREEDOMS (Arts. 7, 8, and 13-17)

### 6.1 Birth registration

1. There is still low issuance of birth certificates to children especially in rural areas of Zambia. According to the Birth Registration Coverage Survey of 2017<sup>1</sup>, the Department of National Registration Passport and Citizenship reports that birth registration in 2016 by Province stood as shown below:

Province	Live births	Birth registration	Percentage
			Coverage
Western	28,546	1,232	4
North-Western	706	19,789	4
Northern	1,409	28,493	5
Eastern	4,530	62,621	7
Muchinga	1,620	22,535	7
Southern	6,427	49,058	13
Central	7,444	39,246	19
Luapula	5,497	27,575	20
Copperbelt	14,195	64,540	22
Lusaka	21,046	49,736	42

2. Further, NCRF is concerned that Zambia lacks readily available access points especially in the rural areas for birth registration.
3. In addition, we are concerned about the poor public awareness about the importance of birth registration and the process by which children are registered in the State party.

<sup>1</sup> Source: <https://www.unicef.org/zambia/media/1516/file/Zambia-birth-registration-survey-2017.pdf>

## **QUESTIONS**

- 1) What is the State Party doing to enhance access to birth registration and speedy issuance of birth certificates especially in rural areas?**
- 2) Any measures to increase public awareness on the importance of birth registration and the process thereof?**

## **7 VIOLENCE AGAINST CHILDREN (Arts. 19, 24, para.3, 28, para. 2, 34, 37 (a) and 39)**

### **7.1 Corporal punishment**

1. The legal framework in the State Party still lacks express prohibition of corporal punishment for children in other settings in subsidiary legislation other than the Education Act 10 of 2011.

The NCRF is still concerned that:

- (i) Corporal punishment is not expressly prohibited in Zambia.
- (ii) The Juveniles Act allows for the administration of lawful punishment.
- (iii) Corporal punishment is still practiced in the family setting.

### **7.2 Abuse and neglect**

1. The State party still lacks sufficient measures, mechanisms and resources to prevent and combat domestic violence, abuse and neglect of children.

The NCRF is concerned that there is limited access to services for abused children, and the high level of impunity enjoyed by the perpetrators of violence against children.

2. Zambia has poor data collection systems for child victims of child rights violations including domestic violence.

The NCRF is also concerned at the lack of comprehensive data on children suffering from ill-treatment, abuse and neglect, and domestic violence, including lack of information on the Child Protection Policy.

### **7.3 Sexual exploitation and abuse**

1. There is widespread incidents of sexual violence, including rape and defilement, in family, Schools, public institutions and Detention Centres in the State Party.

The NCRF is concerned that despite the enactment of the recent amendments to the Penal Code and Anti-Gender-Based Violence Act children continue to report cases of sexual violence in Schools and other public institutions.

2. Zambia equally lacks adequate data on sexual abuse cases.

3. The State party also faces reluctance of family and the general public to acknowledge the existence of sexual abuse and report cases.

The NCRF observes that such violence appears to be socially tolerated in the communities, and accompanied with a culture of impunity and unawareness. This situation contributes to high levels of underreporting.

4. The State Party shows low rate of convictions for reported incidents of rape and defilement.

There are cases where an old man defiles a minor and corrupts law enforcers in the name of family and cultural values and traditions. This worries the NCRF gravely.

5. There is a lack of prioritization of resource allocation for the full implementation of the Anti-Gender-Based Violence Act and address comprehensive measures to address such violence.
6. There is a lack of mechanisms, procedures and guidelines to ensure mandatory reporting of cases of child sexual abuse and exploitation.
7. There are poor awareness-raising activities to combat the stigmatization of victims of sexual exploitation and abuse, including incest, and ensure accessible, confidential, child-friendly and effective reporting channels for such violations.
8. The country lacks programmes and policies for the prevention, protection, recovery and social reintegration of child victims, in accordance with the outcome documents adopted at the World Congresses against Commercial Sexual Exploitation of Children.
9. The State party still tolerates offenders of sexual exploitation and abuse by perpetual application of the bail system even to offenders who repeatedly are reported to the Police on the same allegations.

#### *7.4 Harmful practices*

The NCRF is concerned that:

1. There are negative cultural, traditional and religious tendencies that perpetuate child marriage at the local level especially in rural areas of Zambia.
2. The Marriage Act has not widely been disseminated at the local level and particularly among traditional and religious leaders.
3. There are inadequate awareness-raising campaigns targeting parents, teachers and community leaders on the provisions on the minimum age of marriage and the negative consequences of child marriage on girls.

#### **QUESTIONS**

- 1) *Why has the State Party delayed in abolishing Corporal Punishment across various settings?*
- 2) *What measures or mechanisms are available to prevent and combat domestic violence, sexual violence, abuse and neglect of children; and to increase availability of data on victims and perpetrators of child violence?*

- 3) *With the continued high prevalence of child sexual exploitation, what is the State Party's view towards making sexual crimes against children non-bailable?*
- 4) *What measures and processes are being employed to address the impact of sexual abuse and exploitation on children by the State Party; which institutions provide for the protection and social reintegration of victims?*
- 5) *What is being done by the State Party to ensure accessible, confidential, child-friendly and effective reporting channels for such violations?*
- 6) *What is the State Party doing about the Customary Law that continues to perpetuate child marriages in the country?*

## **8 FAMILY ENVIRONMENT AND ALTERNATIVE CARE (Arts. 5, 9-11, 18 (paras. 1 and 2), 20-21, 25 and 27 (para. 4))**

### **8.1 Children deprived of a family environment**

1. There are growing numbers of children living on the streets.

The NCRF is concerned at the growing numbers of children living on the streets; some coming from a home environment, while others totally living without any alternative family environment. According to an article by the Zambia Daily Mail dated 28 March 2018, streetism, its offshoot: timebomb, there were 13,000 children living on the streets.

2. There are growing numbers of children living with single parents, and those orphaned, and child-headed families.

The NCRF is concerned that despite Zambia adopting the Minimum Standards of Care for Child Care Facilities, and running a Child Care Upgrading Programme, there are growing numbers of children living with single parents, and those orphaned, and child-headed families. According to the Population and Housing Census of 2010 by the Central Statistics Office, there are 11.3% orphaned children, 20,782 child headed households, and 1.3 million orphans who require parental care in Zambia.

There is also a lack of regulatory framework for substitute care, lack of resources for foster parents, unawareness of the existing forms of alternative care and reportedly irregular inspections of the child care institutions.

### **8.2 Adoption**

1. While promoting and encouraging formal domestic and inter-country adoptions – in order to prevent abuse of the practice of informal adoption and protect the rights of children – this framework might encourage child trafficking for purposes of economic exploitation and prostitution.



## **QUESTIONS**

- 1) *How does the State Party intend to strengthen the capacity of the extended family and ensure adequate safeguards based on the needs and best interests of the child?*
- 2) *Do Social Welfare Departments have clear criteria for determining whether a child should be placed in alternative care based on the needs and best interests of the child?*
- 3) *What does the Government intend to do to improve and support the foster care system to enable it to conduct periodic review of the placement of children in foster care and institutions, monitor the quality of care therein, including provision of accessible channels for reporting, monitoring and remedying maltreatment of children.*
- 4) *How is the Government ensuring that adequate resources are allocated to foster parents, alternative care centres and relevant child protection services, in order to facilitate the rehabilitation and social reintegration of children resident therein to the greatest extent possible?*
- 5) *Having acceded to the Hague Convention on the Law Applicable to Maintenance Obligations of 1973 in 2014, when does the State Party plan to become party by signing and domesticating the instrument?*
- 6) *How will the State Party ensure strict monitoring of the adoption processes to protect children from the potential harm of trafficking, child labour and sexual exploitation?*

## **9 DISABILITY, BASIC HEALTH AND WELFARE (Arts. 6, 18 (para.3), 23, 24, 26, 27 (paras. 1-3) and 33)**

### **9.1 Children with disabilities**

While Zambia ratified the Convention on the Rights of Persons with Disabilities in 2010, and enacted the Persons with Disabilities Act No.6 of 2012 and adopted the National Policy on Disability in 2013, the NCRF is concerned that:

1. The legislation and the policy are not fully enforced.
2. The country has not developed a national plan of action.
3. There are insufficient measures adopted to ensure that children with disabilities fully enjoy their rights, in particular to health and education.
4. There is a lack of comprehensive data on the situation of all children with disabilities, disaggregated by, among others, age, sex, type of disability, ethnic and national origin and geographic location.
5. Children with disabilities suffer from a high level of stigmatization due to lack of awareness-raising activities with a view to changing the societal misconceptions about children with disabilities and eliminating stigmatization.

From the observations of children that are differently abled who were consulted, many still feel disregarded, as they are often side-lined in the home, School and Health Centres on the basis of their disability/challenge.



Quote from the deaf and dumb:

“When we go to Health Centres to seek Medical attention, each time we try to explain our problem, the personnel usually shun us and give priority to the able bodied people. We are not regarded.”

6. There are inadequate numbers of specialised staff such as teachers, medical, paramedical and related personnel and social workers in order to understand the needs of children with disabilities and be able to communicate effectively with them.
7. There are also a limited numbers of school facilities and materials adapted to these children, as well as services and infrastructure in order to ensure that education is fully inclusive.

## *9.2 Health and health services*

Zambia made a lot of progress on the immunisation rate and declining under-five, infant and maternal mortality. However, the NCRF is concerned that:

1. Several national policies concerning health care have not yet been implemented.
2. Health services and personnel remain inadequate in terms of coverage and quality.

The NCRF notes that there are not enough qualified staff and functional emergency obstetric neonatal care facilities, particularly in the rural areas. Further, the country demonstrates less efforts to improve access to basic health-care services with trained health workers for all children and pregnant women, particularly in rural areas.

3. Reported under-five mortality, infant mortality and neonatal mortality rates remain high mostly.

The NCRF observes less effort put in by the State party to reduce infant and child mortality, especially by focusing on preventive measures and treatment, improved nutrition and sanitary conditions, vaccination uptakes, and the management of preventable diseases and malaria.

4. The poor nutritional status of children remains one of the main underlying causes of child mortality.
5. Under-five mortality is largely a result of preventable diseases, including pneumonia, malaria, diarrhoea, anaemia and malnutrition.

The NCRF observes that the State party has not implemented and or applied the OHCHR Technical guidance on the application of a human-rights based approach to the implementation of policies and programmes to reduce and eliminate preventable mortality and morbidity of children under 5 years of age (A/HRC/27/31).

6. Systematic data collection on breastfeeding is inadequate.

### ***QUESTIONS***

***1) What plans does the State Party have to improve accessibility to services for children with disabilities, for example education, health and nutrition?***

**2) *How has the State Party prioritised effective service delivery for children within state and non-state institutions with relation to adequate healthcare and nutrition, quality education and overall well-being? Which measures ensure all categories of children are on par with one another?***

## **10 EDUCATION, LEISURE AND CULTURAL ACTIVITIES Arts. 28, 29, 30 and 31)**

### **10.1 Education, leisure, recreation and cultural and artistic activities**

Although efforts are being made towards Free Basic Education, Early Childhood Care and Development, the NCRF is concerned at:

1. The revised Education Act which is meant to comply with International Standards has not been finalised.
2. Implementation of Policy is extremely slow, making it difficult to see tangible results and measure progress.
3. Enrolment, retention and progression of girls at Primary School level is still low, especially in the rural areas.
4. Inadequate budget allocation for education in Zambia.

The NCRF observes that Zambia's Education budget has been declining over the past four years from 20.3 % in 2015 to 15.1 % in 2019, which is way lower than the SADC benchmark of 20%. The current allocation stands at 12% for 2020 academic year. While 0.05% is allocated to Early Childhood Education and Development out of the entire budget allocation. A major indicator of Government's commitment to education is measured by budget allocation, backed up by actual releases.

5. There are not enough spaces to cater for all children of School going age in all Districts. Research reveals a serious negative impact on the performance of children in later years, who have not undergone early childhood development.
6. Insufficiently trained teachers, especially in rural areas.

As a NCRF, we believe that the State party needs to expand teacher training activities and ensure that all teachers undergo continuous and intensive in-service training and periodic evaluation, with particular emphasis on rural areas, and invest sufficient resources to provide adequate school facilities, sanitation, materials and salaries.

7. Girls dropping out of school due to early marriage, teenage pregnancy, discriminatory traditional and cultural practices and poverty, especially in rural areas.

The NCRF notes that Zambia should take measures to:

- (i) overcome discriminatory traditional attitudes that can constitute obstacles to girls' education,
- (ii) address the drop-out and retention rates of girls and
- (iii) reinforce re-entry policy for pregnant girls particularly in rural areas

8. Reported sexual abuse in schools by teachers.

Children in Lusaka at a named school after they reported the abuse to the authorities, the next day were chased from class. At a time of consultation, these two pupils who reported the case were much traumatised. As NCRF, we demand that Zambia must take appropriate measures to address any charges of sexual abuse in schools and prosecute perpetrators.

9. Government has not enacted a legislation on both the mandatory and compulsory education of the child up to the age of 18 years.

The NCRF believes the enactment of this law will bring about a balance between attendance and compulsory education, and ensure quality and that no child is being left behind. This is in keeping with the African Charter on the Rights and Welfare of the Child, which provides for adults to provide guidance for the best interests of the child. The case of Austria is referred here.

10. Collection of user fees and School charges through the parents/Teachers associations, especially in rural areas.

The NCRF observes that in practice, there is no free education in the country, which would facilitate the participation of all children in Primary education and monitor parents/Teachers' Associations to ensure that no fees are imposed on children in order to attend school.

11. Poor School infrastructure and lack of hygiene, especially in rural areas.
12. Long distances to Schools, especially in rural areas.
13. Lack of recreational activities organised for children during school time and the lack of leisure and playground spaces freely available to children.

The NCRF believes that the State party ought to organise sports activities as part of the regular curricula, in accordance with the Committee's general comment No 17 (2013) on the right of the child to rest, leisure, play, recreational activities, cultural life and the arts ensure that children, girls in particular, have time for leisure and play, as well as free access to playground spaces.

14. Pupil-Teacher ratio is high.

### **QUESTIONS**

- 1) *Slow implementation of Policies has made monitoring progress very difficult, when does the State Party intend to finalise and enact the revised Education Policy?*
- 2) *What actions has the State Party put in place to prioritise attaining the provisions of quality education for all with emphasis on through education for the girl child?*
- 3) *With only 1% of Zambia's GDP going towards education compounded with the continuous reduced budgetary allocation since 2015, how does the State Party hope to achieve quality education?*

## *11 SPECIAL PROTECTION MEASURES (Arts. 22, 30, 32-33, 35-36, 37 (b)-(d), 38, 39 and 40)*

### *11.1 Economic exploitation, including child labour*

1. The ILO Conventions number 138 and number 182 have not been fully implemented by the State party.

The NCRF is concerned that despite Zambia ratifying the ILO conventions (no. 138) on minimum age and convention, (no. 182) on worst forms of child labour, the State Party has not fully implemented these two ILO Conventions to implement and monitor the implementation of regulations, which permit employment in light work only by children who have reached 13 years of age, and to strictly determine and monitor the type of activities considered and practiced as light work.

2. Further, the situation of working children and child labourers within the State party is on the increase.

The NCRF is concerned that child labour remains widespread in Zambia with over 1.3 million working children and child labourers. Ninety percent of these are in the agriculture sector and occurs predominantly in rural and informal economies.

For instance, from a 2017/2018 Baseline and prevalence survey<sup>2</sup> of working children and child labourers in Chadiza, Chipata, Katete, Lundazi and Petauke districts, Eastern Province is characterized by:

- 65% of children 5-17 in target districts engaged in child labour – as reported by caregivers
- 91% of children 10-17 years being in child labour – as self-reported by children themselves
- 90% of that number are in hazardous child labour (HCL)
- Girls more likely than boys to be engaged in HCL at all ages
- Children in HCL work long hours in agricultural work on family farms- 22% of girls are in HCL due to heavy loads (water/wood)
- Low levels of literacy for children 10-17 (45% boys; 36% girls cannot read at all)
- Only 6.5% of households had access to skills/livelihood support

As observed also by U.S. Department of State, 2015 Trafficking in Persons Report, Zambia: Tier 2, girls remain involved in unpaid or poorly paid domestic labour or trafficked to urban areas as domestic labourers.

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<sup>2</sup> Source: EMPOWER: Increasing Economic and Social Empowerment for Adolescent Girls and Vulnerable Women in Zambia Project, Winrock International (2018).

3. Under the State party regulation that allows children aged 13 to 14 to engage in light work, they undertake work which is reportedly not light and interferes with children's education.
4. The Labour Inspectorate and Zambia Police Service both lack adequate funds and qualified staff to fully, regularly and effectively implement the child laws and policies and prosecute any violations related to child labour.
5. There is also inadequate statistical data on the situation of working children in the country, ascertaining the extent and consequences of child labour in the State Party.
6. The NCRF observes that adequate statistical data would help the country determine the extent, nature, root causes and impact of child labour in order to develop preventive and remedial strategies.
7. The Prohibition of Employment of Children and Young Persons Act is also not widely known across the country and specifically among traditional and other civic leaders, including the negative and harmful effect of child labour and the differences between acceptable work and child labour.
8. The fight against child labour lacks coordination and collaboration that can link the various programmes and projects in order to support and guarantee success.
9. There also is a lack of institutional protection in the rural and informal economies that is increasing the risk of child labour.
10. Parents' incomes are insufficient and or small family enterprises and farms cannot afford to replace child labour by hiring adults and youth, making children highly vulnerable to child labour.
11. In terms of legislation, the State party has not defined hazardous work prohibited for persons under 18 years of age.

### *11.2 Children in street situations*

1. The number of children living on the street is on the rise within the State party.

The NCRF is concerned with the rise of children in street situations. According to the Zambia Daily Mail article, Streetism, its offshoot: Timebomb, dated 28 March 2018, there are 13,000 street children in Zambia.

2. There is also limited access of children in street situations to housing, health care and educational opportunities, including vocational and life-skills training, to support their full development in order to curb 'child-streetism'.

3. Further, children in street situations are highly vulnerable to abuse and exploitation.

The NCRF notes with appreciation that the State Party revised its National Youth Policy and National Child Policy to improve the well-being of children, provided training for the police officers and established children's rehabilitation Centres in Lusaka and Copperbelt Province. However, the NCRF remains concerned at the limited access of children in street situations to health, education and other basic social services and their vulnerability to abuse and exploitation.

4. We are also concerned about the lack of reliable data on children in street situations.

### *11.3 Sale, trafficking and abduction*

1. There is an increasing number of child victims of commercial exploitation, including prostitution, especially girls and children in disadvantaged situation.

The NCRF is concerned that despite Zambia having the Anti-Human Trafficking Act No. 10 of 2008 and other efforts of the State party aimed at addressing trafficking of children, number of child victims exploited due to commercial interests is on the rise.

2. There is further limited statistical data on the number of child victims of trafficking for purposes of economic exploitation and prostitution and on the child-specific work of the Committee on Human Trafficking and the national plan of action against human trafficking.
3. The implementation of the legislation on trafficking is not fully and effectively done.
4. The State party has not ratified the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography to offer maximum legal protection to children in the context of sale, trafficking and abduction.

### *11.4 Administration of juvenile justice*

1. The minimum age of criminal responsibility is still low in the State Party.

The NCRF is very much concerned that the minimum age of criminal responsibility is set at a very low age of 8 years within the State Party.

2. The State Party still does not use detention as a last resort.
5. Although there is a policy, there is no law in Zambia, which expressly allows diversion for children who come in conflict with the law.
3. Children are not guaranteed legal representation in judicial proceedings.

The NCRF hopes that the State Party may ensure that the right of children to legal representation or other appropriate assistance is guaranteed and that the Legal Aid Board is adequately empowered with financial and human resources in order to establish a department for juvenile representation.

4. Police stations and prisons still largely do not have separate cells for children and children are not adequately provided with education, health and recreation facilities

The NCRF believes children should be separated from adults in pre-trial detention places and in prison all over the country.

5. The Department of Social Welfare, mandated to provide probation services, has inadequate resources.

The NCRF notes that this department requires necessary and sufficient resources to enable it to provide probation, aftercare services and tracking system to monitor the reoffending by juveniles;

6. The current legislation does not recognize children of incarcerated mothers

The NCRF believes these children need the provision of appropriate and adequate services and facilities in prisons and their situation should be legalized.

7. There is lack of information on the work and procedures of the Fast Track courts.

8. There is an absence of statistical data on the number of children who come in conflict with the law.

The NCRF observes further that this data on these children should also include the types of offences, the status of the cases, the number of investigations, prosecutions and convictions of perpetrators, specifying the defilement cases.

### *11.5 Child victims and witnesses of crimes*

1. In the State party, the child victim can be seen by the perpetrator during the criminal procedure.

The NCRF believes a child victim requires a safe space (or protection) during the trial, including by not exposing him or her to the perpetrator and repeal the legislation that currently allows for the perpetrator to see the child victim.

### **QUESTIONS**

- 1) What efforts has the State Party made legislatively and administratively to combat and put a complete end to Child Labour, Child Streetism and Child sale, trafficking and abduction and its harsh effects on them?**
- 2) Why has the State Party not ratified the Optional Protocol (2) to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography to offer maximum legal protection to children in the context of sale, trafficking and abduction?**
- 3) What strategies has the State Party employed to protect children from being engaged in child labor by Investors coming into the country?**
- 4) What has the State Party done to protect children from the disastrous effects of the previous Lead and Zinc Mines' contamination in Kabwe?**
- 5) With 13 years and counting to review and enact the Children's code bill, which provides for diversion of children's cases to facilities that can protect them from the rigorous and tedious formal processes of the justice system, when does the State Party intend to enact this bill?**
- 6) Any plans to operationalize the children's court across the country as established in the Constitution (Amendment) Act No.2 of 2016?**
- 7) How will the State Party ensure the child-friendliness of these courts?**

## **Appendix:**

### List of Members of the National Child Rights Forum

ZOCS, YWCA, REPSSI, MNCRD, Caritas Zambia, CHIN, CSPR, ZCTR, Panos Institute Southern Africa, Zithukule Consortium, Sport in Action, Environment Africa, Save the Children, Lifeline/Childline Zambia, Girl Guide Zambia, Full Proof Mission, ZCEA, SWAAZ, Zambia National Women's Lobby, Young Women in Action, CTPD,

### Other Bodies that contributed to preparation of the document

Relevant Government Departments and Ministries (such as Health, Education, Finance & National Planning, Immigration, Zambia Police Services, Chiefs and Traditional Affairs, Home Affairs, Sport Youth & Child Development, Local Government & National Housing, Community Development and Social Welfare, Legal Aid Board), District Commissioners, Jesus Cares Ministries, Plan International, AVAP, World Vision, Don Bosco, ZNPT, District Women Associations, Community Health Education, Prisoners Future Foundation,