



**Convention on the Elimination
of All Forms of Discrimination
against Women**

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**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 reports of States parties

Zambia*

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

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List of abbreviations

AIDS	Acquired Immune Deficiency Syndrome
ART	Anti Retroviral Therapy
BESSIP	Basic Education Sub-Sector Investment Programme
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CFW	Cash for Work
EFA	Education for All
FAWEZA	Forum for African Women Educationalists of Zambia
FFW	Food For Work
GDP	Gross Domestic Production
GER	Gross Enrolment Ratio
GIDD	Gender in Development Division
GPI	Gender Party Index
GRZ	Government of the Republic of Zambia
HIV	Human Immunodeficiency Virus
ILO	International Labour Organization
IOM	International Organization for Migration
IRH	Integrated Reproductive Health
MMD	Movement for Multi-party Democracy
MMR	Maternal Mortality Rate
MOE	Ministry of Education
MOH	Ministry of Health
NGO	Non-Governmental Organization
NHSP	National Health Strategic Plan
OVC	Orphans and Vulnerable Children
PAGE	Programme for the Advancement of Girl -Child Education
PAM	Programme Against Malnutrition
PMTCT	Prevention of Mother to Child Transmission
PRSP	Poverty Reduction Strategy Paper
PWAS	Public Welfare Assistance Scheme
RH	Reproductive Health
ROADSIP	Road Sector Investment Programme
SADC	Southern African Development Community
SAFE	Students Alliance for Female Educationalists

SHN	School Health and Nutrition
SME	Small and Medium Enterprises
STD	Sexually Transmitted Disease
SWAP	Sector Wide Approach
TBA	Traditional Birth Attendant
TEVET	Technical Education and Vocational Entrepreneurship Training
UNCRC	United Nations Convention on the Rights of the Child
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund
UNZA	University of Zambia
WHO	World Health Organization
WiLDAF	Women in Law and Development in Africa
YWCA	Young Women Christian Association
ZDHS	Zambia Demographic and Health Survey

Foreword

It is with great pleasure that I present Zambia's Fifth and Sixth Periodic Report on the implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

I wish to state that the Government of the Republic of Zambia places extreme importance on the protection and promotion of fundamental human rights and freedoms and, in particular, the CEDAW. It is the guarantee of the rights contained in the CEDAW that ensure gender equity and equality. To this end, Government has incorporated the rights of the CEDAW into the domestic system through several policy measures and pieces of legislation.

I also wish to state that the occasion of preparing the State Report on CEDAW was opportune as it provided Government a moment to take stock of its legislative, judicial and administrative functions, in order to assess the impact of these functions on the rights and welfare of women in the country. The Report, therefore, highlights the several measures that Government is taking to implement the CEDAW and the factors and difficulties affecting the implementation.

The preparation of the Report involved the participation of relevant Government ministries and departments, Human Rights Commission, and Civil Society Organisations. The report is characterised by openness, frankness and honesty, resulting in a factually true and correct presentation of the implementation of the CEDAW.

Finally, I wish to take this opportunity to thank all those who participated in this exercise.

George Kunda SC, MP
Minister of Justice

Introduction

1. Zambia being party to the CEDAW continues to abide by the requirements of state reporting. So far, Zambia has submitted four periodic reports, the last being in 1999. This report is therefore Zambia's Combined Fifth and Sixth Periodic Report which covers the period between June 1999 and June 2007.
2. The preparation of the report was participatory in nature, involving the Government, Cooperating Partners, Non-Governmental Organizations, and Civil Society. The report has also responded to the CEDAW Expert Committee's comments over the third and fourth report.
3. The report is divided into two parts. The First Part of the report provides responses to issues raised by the Committee of experts during its consideration of Zambia's Combined Third and Fourth Report. The second part provides specific information on the implementation of the various articles of CEDAW.

I. Responses to issues raised by the Committee

4. During the State Party's presentation of the Combined Third and Fourth Periodic Report, a number of concerns were raised by the Committee which have now been addressed as follows.

A. Domestication of the provisions of the Convention

5. Zambia has incorporated some of the provisions of the CEDAW through policy documents such as:
 - (a) National Gender Policy;
 - (b) National Cultural Policy;
 - (c) The Education Policy;
 - (d) Health Policy;
 - (e) Fifth National Development Plan.

These policy documents are explained in the body of the State Report.

6. Further, the State Party wishes to report that Zambian legislation has also incorporated certain provisions of the CEDAW through:
 - (a) Protecting women and children from indecent assault, sexual harassment, defilement and trafficking in persons through the Penal Code (Amendment) Act No. 5 of 2005;
 - (b) Article 11 and 23 of the Constitution that proscribe discrimination including discrimination based on sex or marital status;
 - (c) Safeguarding inheritance rights of women as contained in the Intestate Succession and the Wills and Administration of Testate Estates Acts;
 - (d) Guaranteeing rights to employment as stipulated in the Employment Act and Industrial and Labour Relations Act;
 - (e) Responding to issues of HIV and AIDS through the National AIDS Council Act of 2002; and

(f) The prohibition of the application of repugnant customary laws as provided in the Local Courts and Subordinate Courts Acts.

B. Trafficking and exploitation of prostitutes

7. The State Party wishes to report that the measures aimed at avoiding trafficking of women and other persons as well as exploitation of prostitutes are reported under Article 6 of this Report.

C. Gender-based violence

8. The State Party recognises that gender based violence, especially against women and children, continues to be an area of concern that requires immediate attention. A comparative analysis of the cases of violence against women and children shows that there is an increase in the number of reported cases for defilement from 306 reported cases in 2000 to 1,511 cases in 2005 representing an increase of 393 per cent. Reported cases of rape increased from 198 in 2001 to 308 in 2003 and then declined to 290 in 2004 and to 216 in 2005. Table 1.1 below illustrates the trends in respect of rape and defilement. It is worth mentioning that the cases of gender based violence are not limited to rape and defilement only. However, due to the non availability of sex disaggregated statistics it is difficult to provide estimates of the other cases.

Table 1.1

Trends in reported cases of rape and defilement 2000 to 2005

Offence	2000	2001	2002	2003	2004	2005	Total
Rape	- ¹	129	198	308	290	216	1 341
Defilement	306	366	865	1 233	1 375	1 511	5 919

Source: VSU, Zambia Police Service.

¹ Statistics on the number of cases reported were not available.

9. While the above mentioned cases were reported to the law enforcement agencies, convictions remained low for both rape and defilement. Table 1.2 below presents the number of convictions for the offences of rape and defilement for the period 2000 to 2004. The conviction rates for rape and defilement were 19.4 and 18.7 per cent, respectively.

Table 1.2

Trends in number of conviction for offences of rape and defilement for the period 2000 to 2004

Offence	2000	2001	2002	2003	2004	2005	Total
Rape	45	42	65	87	22	45	261
Defilement	45	52	238	626	140	45	1 101

Source: VSU, Zambia Police Service, 2006.

10. As stated under Article 2 and 6, stiffer penalties have been introduced for sexual offenders in the cases of defilement, rape, and sexual harassment of children. Previously, sexual offenders were only liable to imprisonment for a period of 1 to 2 years. Imprisonment terms have now been increased to not less than 7 years, and where it is found

that there is need for stiffer sentencing, imprisonment may be up to life sentences. Where imprisonment is beyond 7 years, cases are referred to the High Court for sentencing. Further, Government is in the process of developing a law on gender based violence in consultation with relevant stakeholders as ascribed in Article 2 in this report.

11. Other measures include the initiatives by Government in collaboration with UNICEF and NGOs such as the Young Women's Christian Association (YWCA); CARE International; Zambia Society for Prevention of Child Abuse and Neglect (ZASPCAN); and WLSA to establish One-Stop Centres which provide integrated services to victims of gender based violence. The services provided by the Centres include counselling, treatment for injuries, investigations, and prosecution. The Women in Law and Development in Africa has gone a step further and simplified the CEDAW and translated the document into the seven (7) major local languages in Zambia.

12. Furthermore, Government, in collaboration with the United Nations Population Fund (UNFPA) is facilitating the training of police officers; magistrates; prosecutors; and local court justices on issues related to property grabbing; spouse battering; sexual abuse; defilement; and other forms of violence against women and girls.

D. Harmonizing of statutory and customary laws study

13. The State Party wishes to report that the situation remains the same with regard to the duality of Statutory and Customary Law. However, Government has initiated a restatement of customary law whose objective is to ascertain the current customary laws and their conformity with the current socio-economic and political values of the country as discussed in Article 2.

14. The State Party has taken note of the Committee's concerns about the stereotypes and prejudices that were prevailing in the country and wishes to report that these tendencies are changing rapidly particularly in urban areas and girls are being treated on an equal basis with their male counterparts. As stated in its previous report, the payment of lobola (bride-price) is still prevalent as an essential ingredient in constituting a valid traditional marriage.

15. Sexual harassment, especially against women is a major human rights concern in the State Party. However, it is difficult to provide the statistics on sexual harassment due to the culture of silence and the complicated nature of providing evidence. In addition, many of the victims are not aware of what constitutes sexual harassment and that it amounts to a criminal offence.

E. Awareness creation on the Convention and the Beijing Platform for Action

16. Government, in collaboration with Civil Society Organisations such as Non Governmental Organisation Coordinating Council (NGOCC); Women and Law in Southern Africa (WLSA); Women in Law and Development in Africa (WILDAF) is disseminating information on the implementation of the Beijing Platform for Action and the implementation of the Convention. In order to ensure systematic dissemination of gender related information, Government will in the first quarter of 2008 embark on a process of developing a Gender and Development Communication Strategy.

F. The role of the National AIDS Council

17. The Committee may wish to note that the National AIDS Council (NAC) is a statutory body established by an Act of Parliament of 2002 and is a broad based corporate body with government, private sector, and civil society representation. NAC is the national mechanism for coordinating and supporting the development, monitoring and evaluation of a multi-sectoral national response to HIV and AIDS. The National AIDS Council's overall mission is the prevention and combating of the spread of HIV and AIDS and the reduction of personal; social; and economic impact of the pandemic.

18. At provincial, district and community levels, the coordination of HIV/AIDS related activities are coordinated by the Provincial; District and Community AIDS Task Forces. These structures ensure that the work of all Government and Civil Society Organisations are well coordinated to ensure that duplication of efforts is minimized and that HIV/AIDS programmes benefit the most vulnerable groups.

G. Reducing maternal mortality

19. The State Party wishes to acknowledge that Maternal Mortality Rates (MMR) still remain high and have increased from 649 deaths per 100,000 live births in 1996 to 729 deaths per 100,000 live births in 2002. In order to contribute to reduced MMR, Government is recruiting more qualified health personnel to ensure increased supervised deliveries which will in turn ensure effective management of complications related to child birth. Consequently, Government has constructed 28 maternity annexes in Eastern; Lusaka and Northern Provinces. Further, Government has refurbished, rehabilitated and extended health training institutions in order to scale up the training of mid-wives. Government has also procured ambulances and radio communication equipment to facilitate referral of patients needing specialised attention, especially for those residing in rural areas.

H. Age at first sexual intercourse

20. With regard to the concern raised on matters relating to age at first sexual intercourse, the State party wishes to report that Government is implementing a number of programmes to prevent early sexual activity among adolescents and consequently delay the median of first sexual encounter. According to the Sexual Behaviour Survey of 2005, the median age at first sex among young people between the ages of 15–24 years was 18.5 years for both males and female which is an increase of two (2) years for this age group from the 1998–2003 Surveys which stood at 16.5 years. The Penal Code prohibits sex with a girl or boy below the age of 16 years.

21. The postponement of first sexual intercourse encounter is attributable to the Youth Peer Education (YPE) Programmes being implemented by Government in collaboration with Civil Society Organisations. The YPE Programmes cover subjects such as HIV/AIDS; pregnancy prevention; abstinence; condom use and STI prevention. In addition, Anti-AIDS Clubs and FAWEZA SAFE Clubs reinforce behavioural change among the youths. Youth Friendly Corners have been established in the health sector, which is a programme in which nursing staff sensitise youths on reproductive health issues.

I. Attainment of 30 per cent women in decision-making positions

22. The State Party wishes to report that it is in the process of developing a gender mainstreaming strategy within the Public Service Reform Programme for the period 2007

to 2011. The main objective of the engendering strategy is to ensure increased representation of women in decision making positions in the Public Service and to ensure that all programmes being implemented are gender responsive. In addition, civil society organisations such as NGOCC; the Zambia National Women's Lobby Group; and Women for Change have been providing training in leadership skills and material support for female candidates in the political arena.

II. Implementation of the Convention

Article 1

Definition of discrimination against women

For the purpose of the Convention the term "discrimination against women" means any distinctive exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, of human rights and fundamental freedoms in the political, economic, social, cultural, civic arena.

23. Currently, the term discrimination against women is not explicitly provided for in the legal framework. This is a great area of concern to the State Party particularly because it recognises that gender based violence, especially against women and children, requires immediate attention. However, in recognising this critical concern, Government has taken the following measures.

A. Legislative measures

The Penal Code (Amendment) Act No. 15 of 2005

24. The Penal Code has introduced stiffer penalties for sexual offences in the following provisions:

(a) Section 136: Any person who unlawfully takes a child out of the custody of protection of the child's father, mother or guardian is guilty of a felony and is liable to imprisonment for a term of not less than 7 years;

(b) Section 137: Any person who unlawfully and indecently assaults a child or other person is guilty of a felony and is liable to imprisonment for a term of not less than 15 years. Section 137 (2) also prohibits the defence of consent on the part of a child in cases of indecent assault;

(c) Section 138 (1): Any person who unlawfully and carnally knows any child is guilty of a felony and is liable to imprisonment of not less than 15 years and may be liable to imprisonment for life;

(d) Section 138 (2): Any person who attempts to have carnal knowledge of any child is guilty of a felony and is liable to imprisonment for a term of not less than 14 years;

(e) Section 138 (3): Any person who prescribes the defilement of a child as a cure for an ailment is guilty of a felony and is liable to imprisonment for a term of not less than 15 years and may be liable to imprisonment for life;

(f) Section 138 (4): A child above the age of 12 years old who commits an offence under subsection 1 or 2 is liable to either community service or counselling as the court may determine, in the best interest of both children;

(g) Section 139: Any person who defiles a child or an imbecile or a person with mental illness is guilty of a felony and liable to imprisonment for a term of not less than 14 years and may be liable to imprisonment for life;

(h) Section 142: Any person who being the owner or occupier of premises permits defilement of children on those premises is guilty of a felony and liable to imprisonment for a term of not less than 20 years and may be liable to imprisonment for life;

(i) Section 144: Any person who detains any child or other person against that child or other persons will is guilty of a felony and is liable to imprisonment of a term of not less than 20 years and may be liable to imprisonment for life;

(j) Section 151: Any person with intent who procures the miscarriage of a woman or female child by administering poison or other noxious thing is guilty of a felony and is liable to imprisonment to a term not exceeding 7 years;

(k) Section 152: Every woman or female child being pregnant who procures their own miscarriage by administering to herself poison or other noxious thing is guilty of a felony and is liable to imprisonment to a term not exceeding 14 years;

(l) Section 153: Any person who unlawfully supplies to or procures any person anything to be intended to unlawfully procure the miscarriage of a woman or female child is guilty of a felony and is liable to imprisonment for a term not exceeding 14 years;

(m) Section 155: Any person who has carnal knowledge of a child against the order of nature or causes a child to have carnal knowledge with an animal or permits a male person to have carnal knowledge of a male child is guilty of an offence and is liable to imprisonment for not less than 25 years and maybe liable to imprisonment for life;

(n) Section 161: Any female of the age above 16 years who with consent permits her grandfather, father, brother, uncle, nephew or grandson to have carnal knowledge of her knowing that person to be a such relative is guilty of a felony and liable to imprisonment for a term not less than 20 years and maybe liable to imprisonment for life;

(o) Section 177: Any person who engages a child or other person in pornography and sells such pornographic material is guilty of a felony and is liable to imprisonment to a term of not less than 15 years.

B. Judicial measures

25. There are no judicial measures to report.

C. Administrative measures

Constitutional Review Process

26. In August 2003, the Government set up a Constitution Review Commission to, inter alia:

(a) Collect views on what type of Constitution Zambia should enact, considering that the Constitution should exalt and effectively entrench and promote the legal and institutional protection of fundamental human rights;

(b) Recommend appropriate ways and means of entrenching and protecting human rights, the rule of law and good governance in the Constitution;

(c) Examine and recommend the elimination of provisions which are perceived to be discriminatory in the Constitution;

(d) Recommend provisions to ensure the competence, impartiality and independence of the judiciary and access of the public to justice; and

(e) Examine and recommend to what extent issues of gender equality should be addressed in the Zambian Constitution.

27. In 2005, the CRC submitted its recommendations and a draft Constitution simultaneously to Government and the Public. As a consequence thereof, Government has established the National Constitutional Conference through Act No. 19 of 2007 to consider and deliberate the provisions of the draft Constitution as well as to adopt the same. The adopted draft Constitution will in turn be enacted by Parliament.

Proposal on Gender Based Violence

28. The State Party wishes to report that Government intends to facilitate debate on the Gender Based Violence Bill through the Zambia Law Development Commission.

D. Factors and difficulties

29. The State Party wishes to report that it has encountered difficulties which include the following:

(a) The current legislation does not adequately address various forms of gender based violence. Consequently, there is no data to show the incidence, forms of violence and the effects of such violence on women who are victims;

(b) The majority of women are illiterate and as a result they are unable to claim their rights.

Article 2

Obligation to eliminate discrimination against women

States parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay adopt a policy of eliminating discrimination against women and, to this end, undertake:

(a) *To embody the principle of the equality of man and woman in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;*

(b) *To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;*

(c) *To establish legal protection of the rights of women on the equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;*

(d) *To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions act in conformity with this obligation;*

(e) *To take all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise;*

(f) To take all appropriate measures, including legislation, to modify or to abolish existing laws, regulations, customs and practices which constitute discrimination against women;

(g) To repeal all national penal provisions which constitute discrimination against women.

A. Legislative measures

The Constitution

30. The State Party wishes to restate that its Constitution guarantees equality between women and men as it recognises that every person in Zambia is entitled to all fundamental rights and freedoms as contained in Article 11 of the Constitution, Chapter 1 of the Laws of Zambia. Article 11 reads in part.

31. It is recognised and declared that every person in Zambia has been and shall continue to be entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, place of origin, political opinions, colour, creed, sex or marital status, but subject to the limitations contained in this part, to each and all of the following, namely:

- (a) Life, liberty, security of the person and the protection of the law;
- (b) Freedom of conscience, expression, assembly movement and association;
- (c) Protection of young persons from exploitation;
- (d) Protection for the privacy of his home and other property and from deprivation of property without compensation;

and the provisions of this Part shall have effect for the purpose of affording protection to those rights and freedoms subject to such limitations of that protection as are contained in this part, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.

32. As previously reported, Article 23 of the Constitution proscribes discrimination.

33. Under Article 28, the Court is mandated to hear a matter and to make such order, issue such writs and give such directions as it may consider appropriate for the enforcement of the Bill Rights. From the foregoing, women have the right to institute proceedings in the event that their rights are violated.

34. Where there is non compliance with the decision of the Court by the person responsible for the violation of right, the Court can find such person in contempt of its proceedings. Upon such conviction, such a person is liable to a fine or a term of imprisonment not exceeding six months.

The Industrial and Labour Relations Act

35. Sub-section (1) of Section 108 of the Industrial and Labour Relations Act, Chapter 269 of the Laws of Zambia prohibits any form of discrimination in employment on the grounds of sex, race, marital status, religion, political affiliation or tribal extraction. It states:

36. No employer shall terminate the services of an employee or impose any other penalty or disadvantage on any employee, on the grounds of race, sex, marital status, religion, political opinion or affiliation, tribal extraction or social status of the employee.

37. The Act further prescribes remedies for persons who have been discriminated against by providing under Sub-section (2) of Section 108 that:

38. Any employee who has reasonable cause to believe that the employees services have been terminated or that the employee has suffered any penalty or disadvantage, or any prospective employee who has reasonable cause to believe that the employee has been discriminated against on any of the grounds set up in Sub-section (1) may, within 30 days of the occurrence which give rise to such belief, lay a complaint before the Court. Provided that the court may extend the 30 day period, for a further 3 months after the date on which the complainant has exhausted the administrative channels to him.

39. Section 108 (3) states that, the Court shall, if it finds in favour of the complainant shall:

(a) Grant to the complainant, damages or compensation for loss of employment;
or

(b) Make an order for re-employment or re-instatement in accordance with the gravity of the circumstances of each case.

The Citizens Economic Empowerment Act No. 9 of 2006

40. The Act prohibits discrimination on ground of gender. In particular, the Act facilitated the establishment of the Economic Empowerment Commission whose functions include the following:

(a) The provision of gender equality in accessing, owning, controlling, managing, and exploiting economic resources;

(b) The promotion of employment of both gender by recommending to appropriate authorities the removal of structural and discriminatory constraints and practices that hinders any particular gender from employment opportunities.

The Zambia Development Agency Act No. 11 of 2006

41. Sub-section (1) of Section 12 of the Act mandates the Agency to recommend, to the Minister responsible for Trade, coherent trade and industry development strategies which promote gender equality in accessing, owning, managing, controlling and exploiting economic resources. It also encourages, supports and facilitates the creation of micro and small scale business enterprises and promotes their participation in trade and industry. Through this Act, it is recognised that, women who form a large part of the informal sector and predominantly reside in rural areas shall benefit from the initiatives contained therein.

The Zambia Police Act (Amendment) No. 14 of 1999

42. Through amendments to the Zambia Police Act, the State party established the Police Public Complaints Authority (PPCA). The authority became operational on 7 May 2003 and is tasked with the responsibility of performing the following functions:

(a) To receive all complaints against police actions;

(b) To investigate all complaints against police actions which result in serious injury or death of a person;

(c) To submit its findings, recommendations and directions to:

- (i) The Director of Public Prosecutions for consideration of possible criminal prosecution;
- (ii) The Inspector-General of Police for disciplinary action or other administrative action; or
- (iii) The Anti-Corruption Commission or any other relevant body or authority

43. In this regard, it is worth noting that the PPCA has power to investigate all complaints referred to it by an aggrieved person directly or indirectly affected by police action; an association acting in the interest of its members; and the person acting on behalf of an aggrieved person, body or organisation. In the State Party's view, the PPCA provides an avenue for all individuals including women and children to report any abuse of authority by police officers for redress.

B. Judicial measures

44. As earlier stated, the application of repugnant customary laws is prohibited through the Local Courts and Subordinate Courts Acts.

C. Administrative measures

45. The State Party wishes to report that the following administrative measures are being undertaken to eliminate discrimination against women:

(a) A study was undertaken by the Zambia Law Development Commission on the restatement of Customary Law in 2003. The general objective was to ascertain the current customary laws and their conformity with the current socio-political and economic values in the country. In addition, there were other objectives as stated here below:

- (i) To identify the branches of customary law and classify them accordingly, either as 'personal' or 'public' customary laws or other form of classification appropriate to them;
- (ii) To identify the common principle of customary law between different ethnic groups, in an attempt to harmonise them;
- (iii) To make a comparative study of customary law practices amongst the various ethnic groups with regard to: marriage; divorce; property rights, possession and ownership; infant custody rights and obligations; succession rights and obligations; elopement, maternity and paternity rights and obligations; criminal offences such as assault and theft; dispute resolution and enforcement of decisions; and identify progressive customary laws for the purpose of publicising them;

The term restatement in the study is used to refer to a restating of customary law in the context of current socioeconomic and political values. In restating customary law, the study identified repugnant customs which should no longer be promoted. It also attempted to identify progressive customs for promotion. In this study, restatement did not include codification;

The study also aimed at harmonising some customary laws through identification of common customary law principles among various ethnic groups. The purpose for identifying these was to firstly, make a start towards harmonising customary laws, usually referred to as unification, and secondly, to make an attempt at identifying conflict in customary laws;

The study did not include codification of customary law because this requires a separate debate. Admittedly, a challenge presents itself in the manner in which the restated customary law should be put into effect. The study intends to publicise customary laws throughout the country. This in itself will involve partial writing of customary law and not codification. The difference between the two is that the latter involves a legislative process, whereas the former refers to a mere recording of customary law in writing;

(b) The establishment of the Parliamentary Committee on Legal Affairs, Governance, Human Rights and Gender Matters is an effective tool in monitoring the actions of central Government with regard to the rights of women and children. The recommendations of the Parliamentary Committee are given full board and attention because of the impetus that they add in assisting central Government in the implementation of women and children's rights. At the last Parliamentary Session (November 2006), the Committee recommended that there was need to strengthen the legislation on human trafficking;

(c) Zambia ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children (Palermo Protocol), supplementing the United Nations Convention against Transnational Organized Crime (Palermo Convention) on 24 April 2005.

D. Other measures

46. The State Party wishes to report that it partners with Civil Society Organisations (CSOs) in promoting women's rights. In particular CSOs provide civic education programmes to members of the general public on women's rights and advocate for increased participation of women in public and political life.

E. Factors and difficulties

47. The following factors and difficulties have been encountered:

(a) Early child marriages continue to deter the girl child from pursuing their education since under customary law it is legal to marry a girl child who has attained puberty;

(b) Low literacy and limited educational opportunities for women and girls often hinder their access to social services such as health and education thereby leading to inequalities between men and women;

(c) Negative customary practices which continue to place women in subordinate positions often deter women from exercising their full potentials in their enjoyment of freedoms and rights.

Article 3

Development and advancement of women

State parties shall take in all fields, in particular in the political, social, economic and cultural field, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

48. The State Party wishes to report that there has been an improvement in the representation of women in public and political life since the submission of the last periodic report. According to available statistics, women's representation in Cabinet has increased from 4.2 per cent in 1999 to 25 per cent in 2006. At the level of Deputy Minister, it has increased marginally from 7.3 to 9.8 per cent in 1999 and 2006 respectively while at Parliamentary level it increased from 10.1 per cent in 1999 to 12 per cent in 2006.

A. Legislative measures

49. There are no measures to report on.

B. Administrative measures

50. The following administrative measures have been undertaken:

- (a) Establishment and continued implementation of a special bursaries scheme for female students at the public universities and technical colleges;
- (b) Implementation of a revised curricular which aims at eliminating gender stereotyping and encourages boys and girls to progress in education;
- (c) Review of the Penal Code to provide for stiffer penalties for perpetrators of gender based violence;
- (d) Continued training of learner legal practitioners and law enforcement officers on human rights and gender matters to ensure that they are knowledgeable on gender issues;
- (e) Introduction of the Drop-In-Centres and shelters for battered women and abused children and counselling services to victims and perpetrators of violence by various NGOs.

C. Factors and difficulties

51. The State Party wishes to report that it continues to face a number of challenges in accelerating the advancement of women. These include, among others, the following:

- (a) Lack of a quota system to enhance women's representation in decision making positions;
- (b) Cultural biases and negative attitudes towards women and girls leading to their low level participation in socio-economic activities.

Article 4

Acceleration of equality between women and men

Adoption of States of temporary measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in any way entail, as a consequence, the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity, shall not be considered discriminatory.

52. The State Party is committed to the acceleration of measures that enhance the equality between women and men. In this regard, it has continued to take affirmative administrative measures and programmes that aim at facilitating increased participation, progression and retention of women in different levels of society. In addition, the State Party continues to implement certain temporal measures in order to improve the situation of women.

53. The State Party wishes to report that, in order for it to promote and accelerate equality between men and women, it has through the National Gender Machinery prioritized five key priority sectors which include: Agriculture and Land; Education; Governance; Health; and Social Protection. Some of the key delivery areas and strategies to ensure the acceleration of equality between men and women include; promoting the participation of women in the social protection schemes; ensuring that 30 per cent of titled land which is allocated is reserved for women; facilitating the review and amendments of discriminatory laws and procedures; and ensuring that women are able to access quality maternal health services in both the rural and urban areas as well as promoting the involvement of men in reproductive health matters.

A. Legislative measures

54. Government has continued to implement measures that protect maternity in accordance with the provisions of the Employment Act, Chapter 268 of the Laws of Zambia.

B. Administrative measures

55. The State Party has put in place the following measures:

(a) Continued implementation of the National Gender Policy and the Strategic Plan of Action which were adopted in 2000 and 2004 respectively to accelerate the advancement of women;

(b) Furthering the bursary scheme for female students enrolled in science and technical subjects as previously reported;

(c) Reserving 30 per cent titled land for women as prescribed in the National Gender Policy of 2000;

(d) A National Cultural Policy was adopted in 2003 whose principle aim is to encourage positive cultural practices which are not discriminatory to women. It is worth noting that the Cultural Policy also aims at socializing boys and girls as equals in the family and community;

(e) The Re-entry policy for girls as reported in Article 10;

(f) The lower cut-off point at Grade 7 and 9 levels for girls.

C. Factors and difficulties

56. The State party wishes to report that it faces challenges in enhancing the equality between women and men which are as follows:

(a) There is general lack of appreciation of gender and development among members of the public and the public service providers. This tends to subordinate issues of gender and perpetuate negative attitudes towards gender and development programmes;

(b) Negative traditional practices that continue to undermine the equality of women and men. This is in spite of efforts that have been undertaken by the State party to change mindsets and stereotyping of women among individuals in Zambia through civic education.

Article 5 **Sex roles and stereotypes**

States parties shall take all appropriate measures to:

(a) Modify the social and cultural patterns of conduct of men and women, with a view of achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority of either of the sexes or on stereotyped roles for men and women;

(b) Ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interests of the children is the primordial consideration in all cases.

A. Legislative measures

57. The Intestate Succession Act recognises and safeguards the woman's right to inheritance whether married under Statutory or Customary Laws.

B. Judicial measures

58. There are no judicial measures to report.

C. Administrative measures

59. The following measures have been put in place:

(a) Adoption of the National Cultural Policy in 2003, which aims at preserving positive cultural norms and values and facilitating the abolition of negative practices that discriminate against women;

(b) As earlier stated in Article 2 of this report, the study on the restatement of customary laws will ensure that sex role stereotyping is addressed and consequently eliminated;

(c) Incorporating human rights teaching at primary and secondary levels in Government schools;

(d) Training Local Court Justices on aspects of positive customary laws that do not discriminate against women;

(e) Extending school infrastructure especially in rural areas in order to increase access to education for both boys and girls, including giving career guidance which encourages boys and girls to pursue careers of their choice. According to the Ministry of Education Statistical Bulletin (2005), there were a total of 29,990 permanent and 6,691 temporary classrooms for Grades 1 to 9. At national level, the percentage of temporary

classrooms was 18.2. The stock of permanent classrooms in 2005 increased from 23,495 in 2004 while that of temporary structures increased from 5,514 over the same period;

(f) Facilitating the establishment of community radio stations in all provincial centres. These radio stations have continued to contribute to increased access to information on positive cultural practices that value girls and women positively in society;

(g) Providing civic education to traditional leaders on the importance of involving girls and women in decision making and enforcing laws which promote girl child education. This has resulted in many Chiefs banning early marriages, a practice which encourages more girl children to freely pursue their education;

(h) Zambia has ratified UNESCO Convention on safeguarding heritage.

D. Factors and difficulties

60. Although some progress has been achieved in eliminating stereotyping, the following factors and difficulties continue to be encountered:

(a) Entrenched negative cultural practices which perpetuate stereotyping have continued;

(b) Access to community radio stations in very remote areas is limited, thereby limiting access to vital information such as that on human rights and gender equality;

(c) Human Rights organisations are mainly located in urban areas and therefore populations in rural areas are not able to access their services.

Article 6

Prostitution and traffic in women

States parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

A. Legislative measures

Trafficking

61. The State Party wishes to report that the Penal Code criminalizes trafficking as follows:

Section 143: Any person who sells or traffics in a child or other person for any purpose is guilty of a felony and is liable for a term of not less than 20 years. In addition, where it is proved during the trial of the accused person that the sale or trafficking in the child or other person was for the purpose of causing that child or person to be unlawfully and carnally known by any other person, whether such carnal knowledge was intended to be with any particular person or generally, the person is liable, upon conviction to imprisonment for life.

Prostitution

62. The Penal Code has criminalized prostitution as follows:

(a) Section 140: Any person who procures or attempts to procure any child or other person to have carnal knowledge or other person for prostitution is guilty of a felony

and is liable to imprisonment for a term of not less than 20 years and may be liable to imprisonment for life;

(b) Section 141: Any person who by threat or intimidation or by false pretences or by administering drugs procures any child or other person to have unlawful carnal knowledge is guilty of a felony and liable to imprisonment for a term of not less than 20 years and may be liable to imprisonment for life;

(c) Section 146: Any person who knowingly lives wholly or in part on the earnings of prostitution is guilty of a felony and is liable to imprisonment for a term not exceeding 15 years;

(d) Section 147: Every person who knowingly lives wholly or in part on the earnings of prostitution of another or who is proved to have for the purpose of gain exercised control, direction or influence over the movements of a prostitute in a manner that shows that such person is aiding and abetting is guilty of a felony and is liable to imprisonment for a term of not less than 15 years and may be liable to imprisonment for life;

(e) Section 149: Any person who keeps a house, room, set of rooms or place or any kind for purposes of prostitution is guilty of a felony and is liable to imprisonment for a term of not less than 15 years;

(f) Section 150: Any person who conspires with another person to induce any person or child by means of false pretences to have unlawful carnal knowledge of such person or child is guilty of a felony and is liable to imprisonment for a term of not less than 15 years, and may be liable to imprisonment for life.

B. Judicial measures

63. There are no judicial measures to report on.

C. Administrative measures

64. The State Party has put in place the following measures:

(a) Establishment of an Inter-ministerial Committee on Trafficking in 2004 under the Ministry of Home Affairs. The mandate of the Committee is to respond to the problem of human trafficking and to develop a preliminary national plan of action which has since been developed. It is also mandated to inform individuals about the vices of trafficking and against engaging in trafficking. It is envisaged that these consultations will lead to the development of a policy and appropriate legislation on human trafficking;

(b) Training was conducted for law enforcement officers especially in key border areas on human trafficking cases in 2005. This was done in collaboration with the International Organisation for Migration.

D. Other measures

65. It is worth noting that civil society organisations contribute to the State Party's efforts by providing services that aim at reforming sex workers. Notable in this regard is TASINTHA that continues to provide sex workers with counselling and alternative survival skills.

E. Factors and difficulties

66. The State party faces the following factors and difficulties in eliminating trafficking and prostitution of women:

- (a) Generally awareness of trafficking remains very low throughout the country;
- (b) Inadequate legislation on trafficking makes it difficult to prosecute offenders;
- (c) The State Party does not have adequate shelter nor does it systematically provide other services to victims of prostitution and trafficking throughout the country;
- (d) In addition, victims are mostly reluctant to offer themselves for rehabilitation programmes;
- (e) There is generally lack of research on the nature, extent, causes and consequences of trafficking in Zambia in order to inform Government policy, strategies or intervention.

Article 7

Political and public life

States parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- (a) *To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;*
 - (b) *To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;*
 - (c) *To participate in non-governmental organizations and associations concerned with the public and political life of the country.*
-

67. Although Zambian women have equal rights with men to vote and to be voted into public office, there is no quota system to facilitate increased representation of women in decision making and this has contributed to their low level of participating in decision making positions.

68. In the 2001 General Elections, there were eleven (11) Presidential candidates out of which two (02) of these were women. On the other hand, in 2006 there was no female presidential candidate. It is, however, worth mentioning that one of the political parties is under the leadership of a female president.

69. At Parliamentary level, one hundred and six (106) women were adopted by various political parties to stand as candidates in the 2006 General Elections. Out of these, only 22 were elected as Members of Parliament. It is worth noting that the Zambian Parliament is composed of 150 elected Members of Parliament.

70. Prior to the September 2006 General Elections there were a total of twenty (20) Cabinet Ministers out of which six (6) were women. At the time of reporting they were only five women Cabinet Ministers out of a total of twenty-four. On the other hand, there are six (6) Deputy Ministers out of forty-four (44).

71. The Committee is invited to note that there are forty (40) registered Trade Unions. Of these, only one is headed by a female.

A. Legislative measures

The Constitution

72. Article 113 (e) of the Constitution makes it a duty for every citizen to vote in national and local government elections. Article 113 (d) of the Constitution further makes it a duty of every citizen to promote democracy and the rule of law.

73. Article 34 of the Constitution stipulates that the election to the office of the President is by direct universal adult suffrage and secret ballot. In order to qualify for presidency one must be a Zambian citizen; his parents must be Zambian by birth or descent; has attained the age of 35; is a member of or sponsored by a political party; qualified to be a member of the National Assembly; and has been domiciled in Zambia for a period of at least 20 years.

74. Article 62 creates the Legislative arm of Government whose power vests in Parliament, which consists of the President and National Assembly.

75. Article 64 of the Constitution states that in order to stand as Member of the National Assembly, one must be a citizen of Zambia, has attained the age of 21 and is literate and conversant with the official language of Zambia. The election to National Assembly is by direct universal adult suffrage and secret ballot.

Local Government Act

76. Under the Local Government Act, Chapter 281 of the Laws of Zambia, a person can be elected to the local government if he is an established resident of Zambia, has attained the age of 18, pays rate taxes, has resided in a particular area for a minimum period of 3 years and is a registered voter in that ward. The election to local government is by direct universal adult suffrage and secret ballot.

Access to public office

77. Article 23 (1) of the Constitution states that subject to clause (5) a law shall not make any provision that is discriminatory in itself or its effect. Article 23 (5) serves to protect national security by restricting access to certain public offices. It would not be healthy for instance to open the Presidency or defense to participation of non-nationals as this is purely a citizen's right.

Electoral system

78. The Electoral Act, Chapter 13, makes provision relating to elections to the office of the President and National Assembly; empowering the Electoral Commission to make regulations providing for the registration of voters and for the manner of conducting elections.

79. In exercising the right to vote, Section 8 of the Electoral Act provides that elections to the office of President shall be held in every constituency in Zambia. Although not explicitly stated in the Act, elections to the National Assembly are also held in every constituency.

80. According to Section 17(2) of the Electoral Act the Electoral Commission is empowered to do the following:

- (a) The division of constituencies into polling districts;
- (b) The establishment of polling stations in polling districts;
- (c) The registration of voters;

- (d) The preparation of, and the form of, registers to be used in the registration of voters;
- (e) The manner of ascertaining whether persons applying for registration as voters are qualified for registration or for their inclusion in a register for a particular constituency;
- (f) The making and determination of appeals, claims and objections with respect to the registration of voters;
- (g) The correction, amendment and certification of registers of voters;
- (h) The circumstances in which the name of any person may be deleted from a register of voters, the transfer of the names of persons from the register of voters or one polling district to that of another polling district and the restoration of names of registers of voters;
- (i) The nomination of candidates for any election and the manner of establishing and recording that a candidate at a direct election for the National Assembly is the authorized candidate of a political party;
- (j) The making and determination of appeals against the rejection of nominations by a returning officer;
- (k) The publication of the names of candidates whose nominations are accepted;
- (l) The payment of election fees by candidates and the circumstances in which such fees are to be returned;
- (m) The use of symbols at an election;
- (n) The appointment of, and the duties of, election agents and polling agents;
- (o) The equipment and facilities to be provided at polling stations;
- (p) The persons who may be admitted to polling stations;
- (q) The manner and procedure of voting at an election;
- (r) The manner of ascertaining the identity of persons wishing to vote at elections and whether such persons are qualified to vote;
- (s) The manner in which persons are qualified to vote;
- (t) Voting by persons employed on election duties on the day of an election;
- (u) The maintenance of secrecy at elections;
- (v) The postponement of, and the adjournment and extension of, time for a poll in case of riot or open violence at an election;
- (w) The administering of oaths or affirmations by election officers in respect of such matters as may be prescribed;
- (x) The procedure to be followed at the conclusion of a poll in an election;
- (y) The procedure for counting votes in an election, and the circumstances in which votes in an election may be rejected by a returning officer as invalid;
- (z) For the purpose of declaring any candidate duly elected, the procedure to be followed where there is an equality of votes between candidates in an election for members of the National Assembly;

(aa) The procedure to be followed where only one person is duly nominated for election to the office of President, or in a constituency for election to the National Assembly;

(bb) The declaration, notification and publication of the results of an election;

(cc) The custody and disposal of nomination papers, ballot papers, records, documents or other things relating to the registration of voters and the conduct of elections;

(dd) Election expenses and the return of election expenses;

(ee) The notification and publication of any casual vacancy in the elected membership of the National Assembly and the fixing of a date for an election to fill such a vacancy;

(ff) The fixing of a date for an election of a President or an election following a dissolution of the National Assembly;

(gg) The forms and records to be used for any of the purpose of this Act; and

(hh) Any matter to be prescribed by or under this Act.

81. With regard to petitions on the election of President, Article 41(2) of the Constitution provides that “Where any question arises as to whether:

(a) Any provision of this Constitution or any law relating to election of a President has been complied with; and

(b) The validity of person elected as President under Article 34 is in question; such matter shall be referred to and determined by the full Bench of the Supreme Court.”

82. Section 18 of the Electoral Act provides an opportunity to losing candidates in a National Assembly election to petition the Court.

B. Judicial measures

83. There are no judicial measures to report.

C. Administrative measures

84. The State party has put in place the following administrative measures:

(a) The National Gender Policy (2000) and its Strategic Plan of Action (2004) emphasize the importance of equitable gender representation at all levels of decision making especially through affirmative action;

(b) GIDD, through the Gender Consultative Forum, enhances partnerships among individuals, civil society organizations and the private sector in addressing gender issues in politics and decision-making.

D. Other measures

85. CSOs compliment the State Party’s efforts by providing civic education that emphasizes importance of women’s participation in the decision making processes. Further CSOs are involved in building capacity to enable women participate in public office.

E. Factors and difficulties

86. The following factors and difficulties have been encountered:

(a) The non-existence of a quota system to facilitate women's increased participation in decision making positions. This contributes to the low level of women participating in decision making positions;

(b) The perpetuation of gender biased and negative traditional practices and stereotyping tends to discourage or prevent women from actively participating in public life;

(c) The poor socio-economic status of the majority of women prevents them from aspiring to public office.

Article 8**International representation and participation**

States parties shall take all appropriate measures to ensure to women, on equal terms with men, and without any discrimination, the opportunity to represent their government at the international level and to participate in the work of international organizations.

87. The State Party wishes to report that it has continued with its non-discriminatory policy with regard to representation in foreign missions. The status of women in foreign missions since 1999 is as follows. There are five (5) female Ambassadors stationed in Belgium, Italy, Sweden, United States of America (Washington) and Zimbabwe; one (1) female Minister Councillor in Ethiopia; four (4) female Councillors in, China, Ethiopia, United States of America (New York) and Switzerland; one (1) Vice-Councillor in the Democratic Republic of Congo. At First Secretary level, there are 12 women stationed in Japan, Malawi, United States of America (New York and Washington), South Africa, Switzerland, United Kingdom, and Zimbabwe.

88. The Committee will note that this is a marked improvement from the previous report in which State party reported that it had only one female head of mission. However, data on women working for international organizations is not readily available since most of these women secure their jobs outside Government influence.

A. Legislative measures

89. There are no measures to report.

B. Judicial measures

90. There are no judicial measures to report.

C. Administrative measures

91. The State Party has established a database of professional women in Zambia. This measure is intended to assist it in identifying qualified women for appointment to local and international positions whenever the opportunity presents itself.

D. Factors and difficulties

92. The following factors and difficulties have been encountered:

(a) There are no measures to ensure the participation of women in international meeting. Consequently, the State Party is not able to provide statistics on women's participation;

(b) Limited access to information on available vacancies at international level contributes to the low participation of women at such levels;

(c) The low level of education among women limits their opportunities to aspire for positions in international organizations as they are unable to meet the required qualifications.

Article 9

Nationality

States parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.

93. The State Party wishes to report that foreign nationals with Zambian spouses have been accorded equal opportunities regarding the application and acquisition of Zambian citizenship since its previous report. Additionally, either parents or guardians are recognized as having the right to apply and collect passports or birth certificates on behalf of their children or dependants without the need for the spouses' written consent. The Committee is referred to Zambia's initial report on the Convention on the rights of the Child.

A. Legislative measures

The Constitution

94. Article 5 confers citizenship upon any child born to a Zambian mother or father who is a citizen at the time of the child's birth regardless of the child's place of birth.

B. Judicial measures

95. In the case of Edith Zewelani Nawakwi Vs the Attorney General 1990/HP/1724, the appellant petitioned the High Court to make a number of declarations, which included the following:

(a) That she has been and continues to be unfairly discriminated on the grounds of sex; and

(b) A single-parent family headed by a female be recognized as a family unit in the Zambian society.

96. In hearing the matter, the High Court observed that a mother in Zambian society was less likely to be treated on an equal footing as a father. The High Court also observed that Government practice that required a mother to obtain a father's letter of consent in

acquiring a passport or travel document for a child was discriminatory. The High Court held that:

“It is not at all justified from whatever angle the issue is looked at, for a father to treat himself or to be treated by the institutions of society to be more entitled to the affairs of his children than the mother of that child or those children. The mother is as much an authority over the affairs of her children as the father is.”

97. The final decision of the Court was that a mother of a child does not require the consent of the father in order to have her children included in her passport. This decision has influenced Government’s policy on granting a passport or travel document for a child to either the mother or father.

C. Administrative measures

98. Since its last report, the State Party has enhanced the equal treatment of foreign males and females in procedures that apply to application for citizenship. In order to ensure fairness both sexes are required to reside in the country for a minimum of ten years before they can lodge applications for citizenship.

D. Factors and difficulties

99. Some individuals have limited knowledge about measures that the State Party has put in place to advance their rights especially as they relate to issues of nationality and children’s rights. In addition, some individuals are also not aware and do not make use of the existing procedures in acquiring a passport or birth certificate for their child or dependent.

Article 10 Education

States parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

(a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diploma in educational establishments of all categories in rural as well as urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;

(b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standards and school premises and equipment of the same quality;

(c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging co-education and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adoption of teaching methods;

(d) The same opportunities to benefit from scholarships and other study grants;

(e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those

aimed at reducing at the earliest possible time, any gap in education existing between men and women;

(f) The reduction of female students drop-out rates and the organization of programmes for girls and women who have left school prematurely;

(g) The same opportunities to participate actively in sports and physical education;

(h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

100. Zambia's education system consists of a multi-structure comprising of pre-schooling, basic, secondary and tertiary levels. The formal education system is in transition moving from seven years of primary; five years of secondary; and four years of tertiary education to nine years of basic; three years of high school; and four to five years of university.

101. The State Party addresses gender issues at all levels of education through the Equity and Gender Component of the Ministry of Education, which was instituted in 1998 to address the wider context of the Jomtien Conference (1990) on the Education for All (EFA). The component ensures that access to quality education; retention and progression are achieved for boys and girls. However, the general trend is that there are more boys than girls accessing education and training. Basic school enrolments have grown steadily from 1,806,754 in 2000 to 2,519,141 in 2004 to 2,852,370 in 2005 as illustrated in the table below.

Table 10.1
Basic school enrolment by sex and year

<i>Sex/Year</i>	<i>2002</i>	<i>2003</i>	<i>2004</i>	<i>2005</i>
Female	1 023 327	1 101 949	1 218 611	1 391 988
Male	1 104 711	1 184 666	1 300 530	1 460 382
Total	2 128 038	2 286 614	2 519 141	2 852 370

Source: MoE 2005 Statistical Bulletin.

102. In 2004, the Gross Enrolment Ratio (GER) for girls was 86.4 per cent. In 2005, Ministry of Education (MoE) statistical data indicates that the Gross Enrolment Ratio (GER) at basic level was 105.55 per cent for boys with 102.74 per cent being for girls. This signified a 16.3 percentage point change.

103. The State Party is now close to reaching gender parity in Grades 1–7 with girls representing 49 per cent of total enrolment in 2005. This represents a Gender Parity Index (GPI) of 0.95 for the same grades and 0.94 for Grades 1–9. In high schools, the number of girls is less than that of boys with a GPI of 0.81 for Grades 10–12 in 2005. This shows that progress has been made as the GPI for the same grades was 0.73 in 2000 as compared to 0.81 in 2005.

104. Completion rates at Basic School level have increased from 11.6 per cent in 2000 to 15.0 per cent in 2005 for girls and 17.4 per cent to 20.1 per cent respectively for boys. In addition, the continued implementation of the Re-entry Policy has also contributed to increased retention and progression for girls. In 2005, out of the 6,528 of the girls who fell pregnant 2, 626 were re-admitted representing 40.2 per cent. Despite the progress recorded, the gender gap in completion rates remains as high as 5.1.

Table 10.2
Completion rates at basic school level by sex and year

Sex/Year	2002			2003			2004			2005		
	M	F	T	M	F	T	M	F	T	M	F	T
National	17.4	11.6	11.4	18.0	13.0	15.4	18.4	13.0	15.7	20.1	15.0	17.7

Source: MoE 2005 Statistical Bulletin.

105. Despite the general decline in the number of out-of-school children, the dropout rates at both basic and high school levels continue to remain high among girls and boys. In 2005 for example, in Grades 1–9 levels, the total dropout rate was 2.53 per cent, with boys' rate at 2.09 per cent and 2.98 per cent for girls. At high school level the drop out rate at national level in 2005 was 1.98 per cent with the boys' rate being 1.25 per cent and 2.87 per cent for girls as shown below.

Table 10.3
Drop-out rates by sex and year

Sex/Year	2001			2002			2003			2004			2005		
	M	F	T	M	F	T	M	F	T	M	F	T	M	F	T
Gr 1–9	3.9	4.3	4.1	3.4	3.9	3.6	2.4	2.9	2.6	2.5	3.4	2.9	2.09	2.98	2.53
Gr 10–12	1.4	2.0	1.6	1.5	2.3	1.8	1.1	2.3	1.6	1.5	2.9	2.1	1.25	2.9	1.98

Source: MoE Statistical Bulletin.

106. The increase in the enrolment and retention of girls at basic and high schools has led to a corresponding increase in the number of girls entering colleges of education as illustrated in the table below.

Table 10.4
Enrolment in colleges of education by sex and year

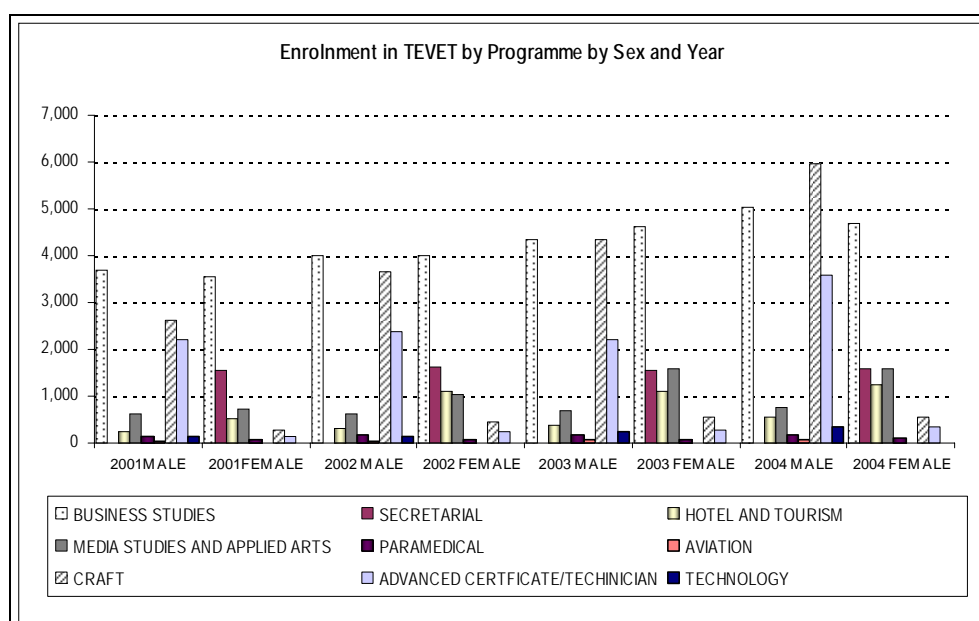
Sex	2003	2004	2005
Male	2 815	4 260	5 632
Female	2 930	4 503	7 178
Total	5 745	8 763	12 810

Source: MoE 2005 Statistical Bulletin.

107. The enrolment of females in colleges increased by 53 per cent between 2003 and 2004, while between the years 2004 and 2005 the increase was recorded at 42 per cent. On the other hand, enrolment for males increased by 51 per cent between 2003 and 2004 while it increased by 30 per cent between 2004 and 2005.

108. During the period 2001 to 2004 there was a steady increase in student enrolment in Technical Education and Vocational Entrepreneurship Training (TEVET) institutions. This was largely due to the general policy direction by the State party to provide education for all by 2015. However, it is worth noting that despite the increase of enrolment in this sector, the number of females has been relatively low compared to that of males in most of the

disciplines except for service oriented fields such as secretarial training as illustrated in the figure below.



Source: MSTVT Statistical Digest 2006.

109. The combined enrolments at the public universities increased from 11,005 in 2003 to 12,774 in 2005 representing a 16 per cent increase. In terms of female and male enrolments, there is still a gender imbalance in favour of male students. Despite the observed gender imbalance, there is a recorded increase in the number of female enrolments from 3,059 in 2003 to 4,179 in 2005 representing 18 per cent compared to a 13 per cent increase among their male counterparts. The tables below illustrate the enrolments at the two public universities.

Table 10.5
Enrolment at Copperbelt University by gender

Gender	2003		2004		2005	
Male	2 039	(80.5%)	2 465	(80%)	2 815	(80%)
Female	494	(19.5%)	625	(20%)	709	(20%)
Total	2 534	(100%)	3 090	(100%)	3 524	(100%)

Source: MoE 2005 Statistical Bulletin.

Table 10.6
Enrolment at University of Zambia by gender

Gender	2003		2004		2005	
Male	4 993	(59%)	5 488	(65%)	5 780	(62%)
Female	2 565	(41%)	2 983	(35%)	3 470	(38%)
Total	7 558	(100%)	8 471	(100%)	9 250	(100%)

Source: MoE 2005 Statistical Bulletin.

110. The gender imbalances in the enrolment rates are similar to those observed in the literacy rates among the males and females. According to the 2000 Census of Population and Housing conducted by the Central Statistical Office (CSO), adult literacy rate stood at 67.2 per cent. Female literacy was 58.3 per cent while that of males was 76.6 per cent. In urban areas the adult male and female literacy rates were 90.3 and 79.3 per cent respectively. On the other hand, the adult male and female literacy rates in rural areas were 68.1 and 46.4 per cent respectively.

A. Legislative measures

111. There are no legislative measures to report on.

B. Judicial measures

112. There are no judicial measures to report on.

C. Administrative measures

113. In order to address gender imbalances and disparities in the education and training sectors, the State Party has put in place the following measures:

- (a) Introduction of the Free Basic Education Policy in 2002 through:
 - (i) The abolition of school fees from grades 1–7 to increase access to education;
 - (ii) Provision of free learning materials to pupils;
 - (iii) Making the wearing of uniforms optional for vulnerable children;
 - (iv) Introduction of termly grants to schools to cater for administrative costs;
 - (v) Abolishment of examination fees at Grade 7 in order to ensure that both boys and girls progress in their education;
- (b) Implementation of nation-wide community mobilization and awareness campaigns to make the communities recognize the importance of education for girls;
- (c) Construction of weekly boarding facilities for girls aimed at reducing distances to schools especially in rural areas. This measure addresses the safety and security issues for girls. In addition, water and sanitation facilities are being improved in schools based in rural areas in order to encourage effective participation of girls;
- (d) Introduction of bursary schemes aimed at encouraging more female students to take up technical skills training. This scheme covers both basic and high schools to ensure that 60 per cent of the support is reserved for girls;
- (e) Continuation of engendering of the school curricula and associated teaching materials. In addition, efforts are being made to make the learning environment gender friendly;
- (f) The development of the policy framework is underway with a view to improving early childhood care and education especially for the vulnerable and disadvantaged children;
- (g) Continued partnership between policy makers and traditional leaders to advocate for girl child education;

- (h) Piloting comfort kits for girls in six provinces in order to increase their participation and attendance during their menstruation cycle;
- (i) Introduction of the School Health and Nutrition (SHN) Programme to ensure quality health and nutrition for vulnerable groups;
- (j) Construction of two other technical high schools for girls at Kapiri Mposhi and Ndola to enhance girls' participation in science and technological fields;
- (k) Re-introducing evening classes which enable adult men and women to go to school and gain some functional literacy;
- (l) Strengthening and re-orienting guidance and counselling programmes to address socio-cultural problems which hinder the progress of girls;
- (m) Reinforcement of penalties against school pupils, teachers and other educational personnel engaging in sexual relations and harassment;
- (n) Provision of female teachers as role models especially in rural areas.

D. Other measures

114. The following are other measures:

- (a) Re-enforcing behavioural change among pupils by providing family planning information and strengthening Anti-AIDS clubs through Forum for African Women Educationalists of Zambia (FAWEZA) Student Alliance for Educationalists (SAFE) Clubs;
- (b) Promoting the participation of girls in education in the remote areas through the Campaign for Female Education Programme (CAMFED).

E. Factors and difficulties

115. While progress has been recorded in the education sector, the State Party continues to encounter some factors and difficulties. These include the following:

- (a) Women continue to be subjected to various social, economic, cultural and/or traditional biases and discriminatory treatment;
- (b) Early marriages, pregnancies or the withdrawal of girls from school continue to be practised;
- (c) Inadequate and inappropriate girl friendly sanitary facilities;
- (d) HIV/AIDS pandemic coupled with high poverty levels have continued to inhibit the participation of girls in education as they are required to help their mothers in caring for the sick;
- (e) Limited availability of resources to facilitate comprehensive implementation of the free basic education policy;
- (f) Inadequate education infrastructure.

Article 11 Employment

States parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of

men and women, the same rights, in particular:

- (a) *The right to work as an inalienable right of all human beings;*
- (b) *The right to the same employment opportunities including the application of the same criteria for selection in matters of employment;*
- (c) *The right to free choices of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;*
- (d) *The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;*
- (e) *The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the safeguarding of the function of reproduction;*
- (f) *The right to protection of health and to safety in working conditions, including the safeguarding of the functions of reproduction.*

2. *In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, states parties shall take appropriate measures:*

- (a) *To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;*
- (b) *To introduce maternity leave with pay or comparable social benefits without loss of former employment, seniority or social allowances;*
- (c) *To encourage the provision of the necessary supportive social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child care facilities;*
- (d) *To provide special protection to women during pregnancy in types of work proved to be harmful to them.*

3. *Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.*

116. According to the 2005 Labour Force Survey, Zambia's total Labour force is 4,918,788 and the employment to population ratio was 77 per cent, indicating that a substantial proportion of the population was involved in labour related activities. Males had a higher employment population ratio at 82 per cent compared to that of females (73 per cent). The overall unemployment rates have increased from 15 per cent in 1990 to 16 per cent of the labour force in 2005 of which 14 and 17 per cent were male and female respectively. Out of every 100 economically active persons, 74 are dependants. Youth unemployment stood at 25 per cent of all the persons in the labour force in the age group 15–19 years while it was 22 per cent for the age group 20–24. Among the unemployed youths 4 per cent are male while 22 per cent are female.

Table 11.1
Employment in the formal and informal sector by residence and province, 2005

<i>Residence and Province</i>	<i>Formal Sector</i>		<i>Informal Sector</i>		<i>Total persons 15 yrs and above employed</i>
	<i>No. of persons</i>	<i>Per cent</i>	<i>No. of persons</i>	<i>Per cent</i>	
Zambia	495 784	12	3 635 747	88	4 131 531
Residence:					
Rural	60 388	2	2 959 033	98	3 019 421
Urban	389 239	35	722 872	65	1 112 110
Sex:					
Male	330 109	17	1 611 710	83	1 941 820
Female	131 383	6	2 058 329	94	2 189 711

Source: Ministry of Labour and Social Security.

117. Of the 4,131,531 persons reported to be employed, a total of 3,635,747 persons (88 per cent) were in informal sector employment, compared to 495,784 persons (12 per cent) were in formal sector employment. This accounts for 10.4 per cent of the total labour force. Thus, formal sector employment has steadily diminished as the main source of employment in Zambia. Women have been the most affected by the erosion in employment opportunities especially in the formal sector. A large number of women are thus engaged in low paying and less productive jobs in the informal sector in urban areas, while another large group of women are engaged in small scale farming in rural areas.

118. The distribution of employed female persons by industry indicates that most of them were engaged in Agriculture, forestry, and fisheries accounting for 76 per cent of all female employed persons. The second most popular industry among females were trade, wholesale and retail accounting for 11 per cent of all female employed persons. Community social and personal services were the third most popular industry among females, representing 7 per cent of all employed female persons.

119. The State Party recognises the equal rights of men and women to participate in the national development process on an equal basis. In order to further women's participation in employment, the State Party encourages all actors to practice affirmative action when advertising for jobs as well as when it comes to employing. In an effort to improve its service delivery, the State Party embarked on reforms of its Public Service in order to be more responsive to the needs of the population.

A. Legislative measures

The Constitution

120. Article 14 of the Constitution recognizes the right of every person to gain a living through work freely chosen by that person.

Industrial and Labour Relations Act

121. As previously stated in Article 2, the Industrial and Labour Relations Act prohibits any discrimination in employment on the grounds of sex.

Employment Act

122. Section 15 A of the Employment Act provides for maternity leave for female employees. It states:

“Subject to any agreement between the parties or any other written law, providing for maternity leave on conditions, not less favourable than are provided for in this section, every female employee who has completed at least two years of continuous service with her employer from the date of first engagement, or since the last maternity leave taken, as the case may be, shall on production of a medical certificate as to her pregnancy signed by a registered medical practitioner, be entitled to maternity leave of twelve weeks with full pay.”

National Pensions Scheme Authority Act (1996)

123. The Act provides for the retirement age at the age of 55 for both men and women. Previously, the retirement age for men was 55 years while for women it was 50 years.

Public Service Pensions Act

124. The Public Service Pensions Act No. 35 of 1996 also prescribes the age of 55 years as retirement age for all Civil Servants regardless of their sex.

B. Judicial measures

125. There are no judicial measures to report on.

C. Administrative measures

126. The State Party wishes to report that it has put in place the following measures.

(a) The formulation of a Gender Policy in Science and Technology aimed at promoting girls' participation in the Science and Technology, in order to ensure that they acquire the necessary skills and qualifications to compete favourably with their male counterparts in the labour market;

(b) Implementation of the National Employment and Labour Market Policy to reduce the levels of unemployment and under age employment in the country with the view to improving living standards. The policy is not discriminatory;

(c) The implementation of the Workplace HIV/AIDS programmes to mitigate the impact of HIV/AIDS.

D. Factors and difficulties

127. The diminishing formal sector has resulted in increased unemployment especially among women the majority of whom have low qualifications. Consequently, this has led to the growth of the informal sector where most women are subjected to low pay and hazardous working conditions.

(a) HIV/AIDS still remains a big challenge to the employment sector;

(b) The high levels of poverty have contributed to the problem of child labour, especially among girl children.

Article 12

Health

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the provision of health care including family planning services in order to ensure, access to equitable quality health care to men and women.

2. Notwithstanding the provision of paragraph 1 of this article, states parties shall ensure to women access appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

128. The State Party wishes to report that its vision is to improve the delivery of health services through the principle of sustainable leadership, accountability and partnership. The Overall Health Goal is to have “a society in which Zambians create environments conducive to health, learn the art of being well and provide basic level health care for all”.

129. The State Party wishes to report that the decentralized approach to planning and provision of health services has broadened the scope for women to access health services and increased their participation in the whole process. Significant recognition is being drawn towards improving reproductive health for women, men and adolescents aimed at increasing child survival and providing better quality of life for men and women. According to the 2005 Economic Report, immunization coverage during the period 2003 to 2005 increased steadily from 74 to 90 per cent during the second quarter of 2005.

130. The use of family planning services has increased in the recent past. According to the ZDHS (2001–2002), the percentage of currently married women aged 15–49 years using any method of family planning increased from 25.9 per cent in 1996 to 34.2 per cent in 2002. However, male participation in family planning remains low though with a marginal increase of 3.5 per cent in 1996 to 3.8 per cent in 2001 to 2002, amongst married women aged between 15–49 years.

131. The Zambia Demographic health Survey (ZDHS) of 2001–2002 revealed an increase in the percentage of women of child bearing age who were chronically malnourished from about 9–10 per cent to 15 per cent. The Maternal Mortality Ratio (MMR) has increased from 649 in 1996 to 729 per 100,000 live births in 2002. This increase has been attributed to, among other things, high percentage of unskilled home deliveries, limited access to facilities (i.e. few facilities, long distance to facilities), lack of transport and poor quality of care (untrained staff and lack of surgical equipment and medical supplies). Obstructed labour, ruptured uterus, postpartum deaths from haemorrhages, infections and post abortion complications have also contributed to increased MMR. Furthermore, women in rural areas rely on Traditional Birth Attendants (TBAs) and relatives for maternal care and because of the low skills among this group, women have suffered the worst cases of maternal deaths.

132. Teenage mothers especially those under the age of 18, have been shown to be more likely to suffer from pregnancy and delivery complications than older mothers resulting in higher morbidity and mortality among this group and their children. According to 2001–2002 ZDHS, more than one in four teenagers in Zambia had a child. Urban teenagers tend to delay childbearing compared to the rural ones, with 23 and 28 per cent respectively. Similarly, the median birth interval for urban women was higher at 36 months compared to the rural women at 33 months.

133. The Annual Health Bulletin (2005) showed that antenatal coverage has however declined from 95 per cent in 2003 to 93 per cent in 2005. According to the ZDHS (2001–2) the proportion of pregnant women who received antenatal care from a trained provider

decreased from 97 per cent in 2003 to 93 per cent in 2005. There are currently 4,641 trained birth attendants and 2,273 midwives against a population of about 2,622 764 women of reproductive age, which is way below the standard requirement.

134. According to the MoH annual report for 2004, nine out of ten women sought antenatal care. The median number of months of pregnancy at first visit is 5.3 months for both urban and rural. It is reported that 77 per cent of women who give birth do not attend postnatal clinics. Younger mothers tend to utilize postnatal services slightly more than older mothers. During the period 2001 to 2004, supervised deliveries increased from 44 per cent to 61 per cent. (MOH 2004 Annual Report).

135. Malaria has remained a major public health problem in Zambia accounting for nearly 40 per cent of out patient attendance and accounts for about 20 per cent of maternal morbidity and mortality. Only 7.9 per cent of pregnant women aged 15–49 years used treated nets in 2002 and about 36 per cent of women used anti-malarial drugs during pregnancy (ZDHS 2001–2002). The malaria incidence reduced from 214 per 1,000 population in 2004 to 200.1 per 1,000 population in 2005 (Annual Health Statistical Bulletin 2005). With intensified Roll Back Malaria activities, the incidence of malaria is expected to reduce even further.

136. The 2000 Census and 2000–2005 Population Projections Report indicate that mortality rates have been showing a positive change. Infant mortality rate is estimated to have reduced to 79 in 2006 compared to 110 in 2000. Under-five mortality rate is estimated to have also reduced from 162 in 2000 to 124 in 2006. Consequently, life expectancy at birth has increased from 50 years in 2000 to an estimated 52 years in 2006. Male life expectancy is 53 years while that of females is 51 years.

137. The ZDHS (2001–2002) estimated that 16 per cent of the adult population was HIV positive. Further, statistics from the Sentinel Surveillance Survey of 2004 revealed that the infection rate was higher among women (13 per cent) than men (8 per cent) in the 15 to 49 years age group. The situation was similar among boys (8 per cent) and girls (17 per cent) aged between 15–24 years. The HIV/AIDS infection rate has been rising among women in the age group 30 to 39 years although on the overall, the infection rate has been regressing. The 1985–2010 Zambia HIV/AIDS Epidemiological Projections report of CSO estimated a decline of adult prevalence at 13.5 per cent in 2006. Accordingly it was estimated that the number of adults expected to die of AIDS related illness in 2006 was 96,202 out of which 45,002 were males and 51,200 were females. The biological make up and the socio-economic status of the females make them more vulnerable to the infection.

138. The number of Voluntary Counselling and Testing (VCT) sites has increased from 46 in 2001 to 176 in 2004 thereby increasing the opportunities for women to access VCT services. Fifty four (54) Anti Retroviral Therapy (ART) Centres countrywide have been established improving access to ART services to a larger community including women and girls. In line with the Free ART Policy, 51,764 persons were put on ART in 2005, (MoH, 2005 Annual Report).

139. In addition, sexual violence against women and children is on the increase and this has implications on HIV transmission and reproductive health. Fifteen per cent of women aged 15 to 19 years have been sexually abused (ZDHS 2001–2002).

A. Legislative measures

140. There are no legislative measures to report on.

B. Judicial measures

141. There are no legislative measures to report on.

C. Administrative measures

142. The State party wishes to report that the following measures have been put in place:

(a) The adoption of the Mental Health Policy which aims at providing psychosocial counselling and protection services to mental patients. This is especially important for female mental patients as they are protected from various forms of abuse. The policy addresses the problem of inadequate mental health workers by reintroducing a direct entry clinical officer psychiatry and registered mental nursing course;

(b) The establishment of health posts in district hospitals/ health centres during the period 2000–2006 to ensure improved access;

(c) Implementation of the User Fee Removal Policy in 54 rural districts;

(d) The strengthening of programmes aimed at promoting the involvement of partners in the provision of health care services;

(e) Implementation of the “Roll Back Malaria Initiative” which is aimed at ensuring that at least 60 per cent of all pregnant women especially those in their first pregnancy have access to chemo prophylaxis or preventive intermittent treatment;

(f) Establishment and/or Expansions of maternity wards at clinics and hospitals that also provide family planning, safe motherhood and PMTCT programmes;

(g) Introduction of Family Life Education in schools and youth friendly corners that encourage utilization of HIV and AIDS services by adolescents;

(h) Capacity building for Traditional Birth Attendants and Community Health Workers to reduce on the high maternal mortality rates;

(i) Implementation of capacity building programmes for integrating gender into Multi-Sectoral AIDS Programmes (MPA) and HIV/AIDS activities aimed at reducing the impact of HIV/AIDS among women and girls;

(j) Establishment of a Cancer Hospital which specifically focuses on cancer particularly breast and cervical cancer;

(k) Improving the quality of health services through infrastructure rehabilitation and maintenance, replacement of obsolete equipment and provision of drugs;

(l) Publication of mental health booklets and development of guidelines on psycho-social support and care for the mentally ill who are living with HIV and AIDS;

(m) Development of female friendly basic health care packages which positively impact on sexual and reproductive health and the reduction of maternal and infant mortality;

(n) Establishment of emergency home based health care delivery services which promote care and support at household and community level;

(o) Incorporation of gender and women’s health issues in health workers’ training curricula;

(p) Development of health management information systems which disaggregate data to facilitate effective and timely planning, budgeting and monitoring of gender in health.

D. Factors and difficulties

143. Despite the efforts aimed at improving the quality of care, health care is not readily accessible to all, especially women. Some of the challenges include the following:

(a) Long distances and limited access to transportation to health care facilities make it difficult for women to visit hospitals or clinics;

(b) High turnover of skilled health workers resulting in shortage of qualified health personnel in health institutions;

(c) Multiple demands especially on rural women, which affects their visits to health centres;

(d) Gender inequalities in some households that hinder women from making quick and appropriate decisions on matters that affect their health.

Article 13

Social security and economic benefits

States parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights in particular:

(a) *The right to family benefits;*

(b) *The right to bank loans, mortgages and other forms of financial credit;*

(c) *The right to participate in recreational activities, sports and all aspects of cultural life.*

144. The State Party wishes to report that social security is generally tied to formal employment. Bearing in mind that the number of women in the formal sector is low as described under Article 11 of this report, it is consequential that they have limited access to social security measures. In most cases, social security and economic benefits do not extend to women in rural areas.

145. Most women are unable to access financial credit due to their weak economic positions coupled with lack of collateral which is a major requirement by most financial institutions. For rural women, the situation is made worse by the limited number of financial institutions.

146. The deteriorating socio-economic situation has affected the development of sport, leisure and recreation in both rural and urban areas. This situation has been exacerbated by the limited number of recreation facilities which limits women's access. Furthermore, women's participation in recreation and sport activities are constrained by their preoccupation with household chores. The State Party has put in place the following measures to address social security and economic benefits.

A. Legislative measures

National Pensions Scheme Act

147. Section 3 of the National Pension Scheme Act, No. 40 of 1996 establishes the National Pension Scheme Authority (NAPSA), which is mandated to implement the policy relating to pension schemes. The benefits are provided under Section 9 of the Act which states:

“The authority shall pay pension benefits to a member who:

- (a) Retires from employment on reaching the retirement age;
- (b) Retires five years before he reaches pensionable age and has contributed to the Scheme for a minimum period prescribed by the authority; or
- (c) Has made contributions for at least twelve months and is certified by the medical board that he is incapable of gainful employment due to a total or partial mental or physical incapacity which pension shall be determined by a formula by an actuarial study and prescribed by the Minister by Statutory Instrument.”

148. The benefits available under the Act are invalidity pension, invalidity lump sum payment and survivors benefit.

Workers Compensation Act

149. Section 41 of the Workers Compensation Act, Chapter 271 provides for workers’ right to compensation as follows:

“If an accident to a worker arising out of and in the course of his employment happens after the date of commencement and results in such workers disablement or death, his dependants shall become entitled to compensation in accordance with the provisions of this Act.”

150. Section 2 of the Act does not limit the compensation to one accident.

Interstate Succession Act

151. Section 5 of the Intestate Succession Act, Chapter 59, regulates the distribution of property to beneficiaries where a person dies intestate. It provides:

“(a) Twenty per cent of the estate shall devolve upon the surviving spouse; except that where more than one widow survives the intestate, twenty per cent of the estate shall be distributed among them proportional to the duration of their respective marriages to the deceased, and other factors such as the widow's contribution to the deceased's property may be taken into account when justice so requires;

(b) Fifty per cent of the estate shall devolve upon the children in such proportions as are commensurate with a child's age or educational needs or both;

(c) Twenty per cent of the estate shall devolve upon the parents of the deceased; and

(d) Ten per cent of the estate shall devolve upon the dependants, in equal shares.”

Wills and Administration of Testate Estate Act

152. The Wills and Administration of Testate Estate Act, Chapter 60 regulates the administration of wills and their enforcement. The State Party further wishes to inform the Committee that it established the Office of the Administrator General and Official Receiver

to take care of estates of deceased persons between the death of an intestate and appointment of an administrator. This acts to safeguard the interests of the beneficiaries and guards against any interference with the intestate's assets.

B. Judicial measures

153. There are no judicial measures to report on.

C. Administrative measures

154. The following measures have been and continue to be implemented:

(a) Free medical care is provided to children under the age of 5, pregnant women and adults aged 60 and above in all public health institutions;

(b) Redesigning of the Public Welfare Assistance Scheme (PWAS) to provide for the protection of vulnerable persons through the provision of various services which include: bursaries schemes for children for poor families. Under the same programme, the State Party, in collaboration with the Germany Technical Assistance to Zambia (GTZ); United Nations Development Programme (UNDP); and CARE International, have since 2003, embarked on a Cash Transfer Scheme. This social safety net project begun on a pilot basis in Southern and Eastern Provinces and is yet to be scaled up to other areas. The project aims at reducing poverty, hunger and starvation. The Table below shows the total number of beneficiaries of the Scheme, from 1995 to 2003:

Table 13.1

Beneficiaries of the Public Welfare Assistance Scheme (PWAS)

<i>Year</i>	<i>Total</i>	<i>Male</i>	<i>Female</i>	<i>Male %</i>	<i>Female %</i>
1995	127 407	51 959	75 448	40.78	59.22
1996	130 072	53 418	76 654	41.07	58.93
1997	35 081	13 638	21 443	38.88	61.12
1999	59 423	25 201	34 222	42.41	57.59
2000	59 424	25 202	34 222	42.41	57.59
2001	95 043	40 260	54 783	42.36	57.64
2002	108 983	44 915	64 068	41.21	58.79
2003	105 043	43 361	61 682	41.28	58.72
Total	720 476	297 954	422 522		

Source: Ministry of Community Development and Social Services.

Government has established an inter-ministerial working group to research on alternative socio-security programs with a view of extending social security to the informal sector;

(c) **Implementation** of the Collective Agreements promote social security through the following:

(i) **Medical Retirement Benefits**

An employee who is unable to continue in employment owing to sickness or accident and has a medical report from a medical practitioner is eligible to receive terminal benefits according to the length of service in employment;

(ii) **Maternity leave**

A female employee who has been in continuous employment for a period of at least 24 months is entitled to 3 months paid maternity leave irrespective of whether or not she is married, provided that an employee shall not be granted maternity leave twice within 24 months;

(d) **Implementation** of the Housing Allowance Policy. The Committee may wish to note that in addition, men and women are entitled to housing allowances and travel benefits which largely depend on the contracts of engagement between employee and employer.

D. Other measures

155. Civil Society Organisations are instrumental in supplementing efforts in ensuring the protection of the family. They provide support in terms of drop-in-centres and orphanages for vulnerable children and victims of domestic violence.

The extended family system plays a major role in protecting and supporting individual family members.

E. Factors and difficulties

156. Despite the measures undertaken, the State party faces the following factors and difficulties:

- (a) Access to *social* security is limited to those in the formal employment sector;
- (b) The *disintegration* of the extended family system and economic pressure has limited the availability of support provided to vulnerable family members;
- (c) The HIV/AIDS pandemic has brought about serious challenges to the social security system. Uninfected family members are also affected by HIV/AIDS, as they suffer from reduced incomes;
- (d) Formal social security has not been extended to the informal sector, where the majority of women are found;
- (e) High *interest* rates charged by financial institutions limits access to credit by vulnerable groups of men and women.

Article 14**Special programme for rural women**

1. States parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetised sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.

2. States parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

- (a) To participate in the elaboration and implementation of development*
-

planning at all levels;

(b) To have access to adequate health care facilities, including information, counselling and services in family planning;

(c) To benefit directly from social programmes;

(d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;

(e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self-employment;

(f) To participate in all community activities;

(g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as land resettlement schemes;

(h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communication.

157. According to the Census of Population and Housing of 2000, the rural population was 5,990,356 of which 3,058,805 were female representing 51.1 per cent. Results from the LMCS (2004) estimated that 92 per cent of all employed persons were employed in the agriculture sector. The sex differentials show that 94 per cent of all females were employed in the agriculture sector, 5 percentage points more than the males. A gender review shows that women are the main producers, providers and traditional managers of food production for household subsistence. They grow a wider variety of crops such as maize, sorghum, millet, beans, groundnuts and cowpeas that are mostly sold on the local markets. However, rural women lack access to market support services which limits the amount of cash income they can earn for themselves and their families.

158. Land is an important asset for agricultural production. Zambia has a two tier system of land ownership which consists of State and Customary. However, in rural areas it is customary law and practice which dominate the allocation, inheritance and use of land. In this system, access to land is determined by traditional authorities. Women lack control over land but have access and user rights to land.

159. Female small scale farmers are not usually well positioned to effectively market their produce. They are mostly restricted by their inactive participation in farmer networks where information on market prices and opportunities are usually distributed. On the other hand, they lack access to credit due to the limited number of financial institutions in rural areas. Where financial institutions exist, women's access to credit is limited by high interest rates and their lack of collateral.

160. Regarding the participation in decision making, rural women tend to be quite visible within their households but not at community level. Their ability to participate in decision making at community level is influenced by factors, such as the socialization process, patriarchal systems and traditional beliefs, which delegate decision making in public to men.

161. Access to clean and safe water and sanitation are limited in rural areas. According to the progress report on the implementation of the Poverty Reduction Strategy Paper for Zambia (2005), access to safe water supplies in rural areas is estimated at 37 per cent of the rural population. For sanitation, the estimated coverage was 68 per cent. This has further contributed to limited access to water for women and children who are the main couriers

and transporters of water, as they have to walk long distances, wait for long hours, and endure insecurity at and between water points.

A. Legislative measures

The Citizens Economic Empowerment Act No. 9 of 2006

162. As reported in Article 2 of this report, the Act seeks to enhance gender equity in accessing, owning, managing and exploiting economic resources.

The Zambia Development Agency Act No. 11 of 2006

163. The Act facilitates individual's access to financial resources, business enterprise, education and entrepreneurship skills training and investments especially in rural areas. The Act promotes the financing of micro and small business enterprises and rural enterprises. It is also heavily founded on the principles of gender equality.

The Lands Act

164. The State Party is currently revising its Lands Act Chapter 184 of the Laws of Zambia and has proposed that 30 per cent of titled land should be reserved specifically for women, including those in rural areas.

The Rural Electrification Authority Act

165. The Act provides for the establishment of the Rural Electrification Authority which is responsible for co-ordinating the implementation of rural electrification programmes. The programme is useful for uplifting the status of rural populations by facilitating access to electricity, and by providing alternate forms of energy appropriate for rural areas such as solar energy which require less capital investments as opposed to hydro energy.

B. Judicial measures

166. There are no judicial measures to report on.

C. Administrative measures

167. The State party has put in place the following administrative measures:

(a) Development of the Fifth National Development Plan (2006–2010) which provides for a national development framework and strategy to achieving the Millennium Development Goals (MDGs) by 2015. The Plan addresses issues pertaining to rural women's socio-economic problems such as poverty Alleviation;

(b) The implementation of the Water and Sanitation component of the Water, Sanitation, and Health Education (WASHE) Programme, which caters for the provision and maintenance of adequate supply of water for human consumption and domestic use in rural areas;

(c) The implementation of the Rural Water Supply and Sanitation Programme which aims at improving access to safe water supply and sanitation facilities;

(d) The implementation of the Agricultural Support Programme which specifically targets small scale farmers and vulnerable women. Agricultural inputs such as fertilizer and seed are provided at subsidised prices;

- (e) Strengthening the capacity of extension officers to provide continuous training to rural farmers especially women;
- (f) The provision of credit through micro finance institutions in the rural areas;
- (g) Review of the Land Policy to include issues such as equitable distribution of land and security of tenure of title.

D. Factors and difficulties

168. The following factors and difficulties have been encountered:

- (a) Extension services are not evenly provided throughout the country especially in rural areas where most of the small scale farmers are located;
- (b) Most rural women are unable to access investment capital to engage in business and other economic activities as individuals;
- (c) Poor infrastructure and limited availability of qualified health personnel resulting in poor child health;
- (d) Inadequate transport and communication services in rural areas.

Article 15

Equality before the law and in civil matters

- 1. State parties shall accord to women equality with men before the law.*
 - 2. State parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.*
 - 3. State parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.*
 - 4. State parties shall accord to men and women the same rights with regard to law relating to the movement of persons and the freedom to choose their residence and domicile.*
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169. The State Party wishes to report that there are no legal restrictions on women's ability to enter into contracts. Consequently, they have access to credit facilities and have the right to freely administer their property.

A. Legislative measures

The Constitution

170. Article 18 of the Constitution entitles any person who is charged with a criminal offence, to be accorded a fair hearing within reasonable time by an independent and impartial court established by law.

171. The Constitution also sets the legal basis upon which every person lawfully in Zambia is entitled to the right to movement and freedom to choose one's residence. Further, Article 22 of the Constitution provides that every person in Zambia has the right to move

freely throughout Zambia; reside in any part of Zambia; and leave Zambia and return to Zambia, except where that person has been lawfully detained.

172. As reported earlier Article of the Constitution prohibits discrimination.

Legal Aid Act

173. The Legal Aid Department was created under Chapter 34 of the laws of Zambia to assist litigants and accused persons who do not have sufficient funds to engage private lawyers. Legal aid is granted free of charge to the most vulnerable members of society. The Committee may wish to note that the Legal Aid Department is in the process of being decentralized to enable it reach out to a greater part of the population. Further, the Legal Aid Department is also in the process of being made autonomous.

High Court Act

174. Section 10 of the High Court Act, Chapter 27 of the Laws of Zambia enshrines into Court process, the principles of common law which enunciate the principles of natural justice. These principles entail fair hearing before the Courts of law, tribunals and quasi-judicial bodies.

B. Judicial measures

175. There are no judicial measures to report on.

C. Administrative measures

176. The State Party has put in place the following measures:

(a) The restatement of customary law to ensure that repugnant customary practices are eliminated within society;

(b) The National Gender Policy which aims to achieve gender equality between men and women through their effective and equal participation in the development process of the country;

(c) The establishment of the Human Rights Commission (HRC) under Article 125 of the Constitution which is mandated to promote and protect human rights. The functions of the Commission are as follows:

(i) To investigate human rights violations;

(ii) To investigate any mal-administration of justice;

(iii) To propose effective measures to prevent human rights abuses;

(iv) To visit prisons and places of detention or related facilities with a view to assessing and inspecting conditions of the persons held in such places and make recommendations to redress existing problems;

(v) To establish a continuing programme of research, education, information and rehabilitation of victims of human rights abuses in order to enhance the respect for and protection of human rights;

(vi) To do all such things as are incidental or conducive to the attainment of the functions of the Commission;

(d) The establishment of the Commission for Investigations whose mandate is to receive and investigate complaints from the public against acts of injustice or mal-administration perpetrated by senior Government officials, heads of parastatal institutions and local authorities. The Commission ensures fairness by promoting social justice in the administration of public institutions.

D. Other measures

177. Civil Society Organisations have played a key role in advocating for equality before the law and civil matters. In this regard the following measures are in place:

(a) The National Legal Aid Clinic for Women continues to offer legal services in civil matters to the vulnerable including women as stated in the previous report;

(b) Civil Society Organisations continue to carry out civic education for individuals including traditional leaders on the need to eliminate traditional customary practices and on the rights of women and children;

(c) A number of NGOs sensitise and educate members of the public on issues of human rights and offer legal assistance to the vulnerable. These include Foundation for Democratic Process (FODEP), WLSA and YWCA.

E. Factors and difficulties

178. The following factors and difficulties have been encountered:

(a) The State Party recognizes that gender inequalities still exist in the application and practice of laws. This is mainly because of the application of its dual legal system where statutory law exists along side customary law. While the application of statutory law provides for equality between women and men, this situation may not readily manifest itself in the application of customary law which may have a tendency of subordinating women's rights to masculine preferences;

(b) Most women are unable to seek justice in the courts because of several factors. The most prominent are lack of knowledge of the justice system; lack of a litigious culture because of cultural inhibitions; lack of access to legislation; and lack of resources to engage lawyers to represent them;

(c) Inadequate staff in the Legal Aid Department leading to limited access to free legal services especially for women;

(d) Lack of awareness among women of their rights and the institutions that have been established to promote the rights of women;

(e) Limited collaboration between relevant Government institutions and CSOs involved in activities aimed at promoting equality before the law;

(f) Inadequate staff in the Human Rights Commission and the Commission for Investigation leading to limited provision of remedial measures especially for women.

Article 16

Equality in marriage and family law

1. States parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

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- (a) *The same right to enter into marriage;*
 - (b) *The same right freely to choose a spouse and to enter into marriage only with their free and full consent;*
 - (c) *The same right and responsibilities during and at its dissolution;*
 - (d) *The same rights and responsibilities as parents, irrespective of their marital status in matters relating to their children; in all cases the interests of the children shall be paramount;*
 - (e) *The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;*
 - (f) *The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;*
 - (g) *The same personal rights as husband and wife including the right to choose a family name, a profession and on occupation; and*
 - (h) *The same rights for both spouses in respect of the ownership, acquisition, management administration, enjoyment and disposition of property whether free of charge or for a valuable consideration.*
2. *The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriage in an official marriage compulsory.*
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179. Family relations are governed by a dual legal system of statutory and customary laws. The family in Zambia is considered as the basic fundamental unit of society, and as such, is entitled to protection by the State. It is composed of two main structures, the nuclear and the extended family. The nuclear family is composed of a husband, wife and children and is more pronounced in urban areas. The extended family includes paternal and maternal grand parents, uncles, aunts, nieces, nephews and other relations. Marriage is considered important to the existence of the family.

180. Under statutory law, marriage is between the contracting parties while a customary law marriage is one between two families. Customary Marriages are potentially polygamous and unite two families as opposed to uniting the two parties to the marriage. The rules governing the formation of a customary law marriage suggest that the objectives of the perpetuation of lineage override the objectives of the attainment of personal goals which would benefit the individual.

181. As previously reported the payment of lobola still remains a factor in the marriage process. Under statutory law, neither lobola nor parental consent is necessary in contracting a marriage. However, most women and men marry under both regimes. This means that, even where parties have contracted a marriage under statutory law, payment of lobola signifies the delivery of the bride and the confirmation of a marriage. In marriages where lobola is paid, the husband has absolute rights over children and the reproductive rights of the wife.

A. Legislative measures

The Marriage Act

182. The Marriage Act Chapter 50 provides for the minimum age of 21 for either male or female at which they can enter into marriage without restrictions. Under this Act, a marriage is monogamous. Married couples are not permitted to enter into other marriages whilst the first marriage subsists. The Act also provides for the protection of spouses and children upon dissolution of marriage.

The Juveniles Act

183. The Juveniles Act provides for children and juveniles in need of care and protection; a system of adjudication correction and rehabilitation for juveniles who are in conflict with the law; and the establishment of children's institutions such as orphanages.

The Adoption Act

184. The Adoption Act Chapter 54 provides regulations, which must be followed when a person intends to adopt a child. The Adoption Act provides for the adoption of children. The Act prohibits the adoption of a female child where the sole applicant is male unless the court is satisfied that there are special circumstances which justify an exceptional measure for making the adoption order per Section 10 of the Adoption Act.

The Wills and Administration of Testate Estate Act

185. The Wills and Administration of Testate Estate Act Chapter 60 provides for the protection of the family, in so far as a testator's estate is to be distributed to the beneficiaries.

The Affiliation and Maintenance of Children Act

186. The Affiliation and Maintenance of Children Act Chapter 64 of the Laws of Zambia empowers women in sections 3, 4, and 5 to apply for affiliation and maintenance orders. Further section 11 (2), the court in granting the maintenance order shall have regard to the welfare of a child and the best interest of the child. Where the court makes a maintenance order, the court also has power to make an order for affiliation or custody of children.

B. Judicial measures

187. In the case of Lillian Mushota and Doreen Mwila (Mushota) in (2000/HP/0078) the High Court affirmed that where a person contracts a statutory marriage, any purported second marriage is a criminal offence under the *Zambian Penal Code*, Chapter 87.

188. The hardships of women in relation to property and financial support after divorce are more pronounced in customary marriages than in marriages contracted under the *Marriage Act*. Traditionally, customary law denies women any rights to family property or maintenance on dissolution of the marriage. Statutory law provides for sharing of property between husband and wife and the maintenance of either spouse upon divorce, because the applicable divorce law is the *English Matrimonial Causes Act, 1973*.

189. In this regard, the Supreme Court held in the cases of *Richard Musonda v. Florence Musonda* (1998) and *Chibwe v. Chibwe* (2000) that when it comes to divorce women are entitled to a share of the property. The *Chibwe* case affirms the fact that even couples married under customary law are entitled to an equal share of property after divorce. However, in terms of custody of children after divorce, in some customary law marriages

lobola discriminates against women in that it confers a right of custody of the children to the husband.

190. It is now settled law in Zambia that when a marriage is dissolved, the courts should inquire into the 'best interests of the child' and not the rights of the parents as held in *Evans Vs Evans* 1999/HP/D.20. It is the responsibility of every individual to challenge any customary laws that are not in conformity with equity on that basis and not because the laws are subservient.

191. Concerning property ownership in the home, both women and men have the right to own property. However, under customary law the situation is different, in that only the man has the power to dispose of property, though his children and spouse may have access to it. The concept of ownership of land is very limited in that the power to dispose of it only exists as long as the disposition is within the clan circle. Although the right to ownership of land by a woman exists in theory in some ethnic systems, it is seldom practised.

192. In the case of *Re Wills and Administration of Testate Estates Act between Isaac Tantameni Chali (Executor of the Will of the Late Mwalla Mwalla) v. Liseli Mwalla* (SCZ Judgement No. 6 of 1997), the executor appealed against an order of the High Court varying the terms of the deceased's will. The testator had made no provision for the respondent and her brother. The trial judge relied on the provisions of Section 20 (1) of the Wills and Administration of Testate Estates Act, which states that if, upon application made by or on behalf of a dependant of the testator, the Court was of the opinion that the testator had not made reasonable provision, whether during his lifetime or by his will, for the maintenance of the dependant, and that hardship would thereby be caused, the Court may, notwithstanding the provisions of the will order that such reasonable provision as the Court thinks fit shall be made out of the testator's estate for the maintenance of that dependant.

193. The Supreme Court held that the respondent was in law not covered by the definitions of 'dependant' or 'child'. Section 3 of the Act defines dependant to mean a wife, husband, child or parent, and although the term 'child' is not defined in the Act, the age of a minor is given as a person who has not attained the age of 18.

194. In addition, as earlier indicated, the State party enacted the Intestate Succession Act, Chapter 59 to regulate intestate succession matters.

C. Administrative measures

195. The State Party has put in place the following administrative measures:

- (a) The restatement of customary law which has an effect on the type of Zambian matrimonial causes legislation that should be developed;
- (b) The implementation of the Integrated Reproductive Health programme, refer to Article 12;
- (c) The revision of the Land Act as reported under Article 14.

D. Factors and difficulties

196. Despite the measures that the State party has put in place, there are a number of constraints that it faces in implementing Article 16. These are:

- (a) The dual practice of statutory and customary laws:
 - (i) Makes it difficult to arbitrate in cases of family disputes and or divorce;

- (ii) Allows entry into marriage upon attainment of puberty on the basis of parental consent which violates the girl's rights;
- (b) Continued violation of women's rights particularly in inheritance and devolution of property.

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