



**Convention on the  
Rights of the Child**

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**COMMITTEE ON THE RIGHTS OF THE CHILD**

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 44 OF THE CONVENTION**

**Initial reports of States parties due in 1994**

**ZAMBIA**

[29 November 2001]

## CONTENTS

	<u>Paragraphs</u>	<u>Page</u>
List of abbreviations .....		3
Executive summary .....		5
Map of Zambia .....		11
Introduction .....	1 - 21	12
I.    GENERAL MEASURES OF IMPLEMENTATION .....	22 - 75	14
II.   DEFINITION OF A CHILD .....	76 - 107	25
III.  GENERAL PRINCIPLES .....	108 - 156	28
IV.  CIVIL RIGHTS AND FREEDOMS .....	157 - 200	34
V.   FAMILY ENVIRONMENT AND ALTERNATIVE CARE .....	201 - 247	41
VI.  BASIC HEALTH AND WELFARE .....	248 - 328	47
VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES .....	329 - 484	59
VIII. SPECIAL PROTECTION MEASURES .....	485 - 583	88
IX.  CONCLUSION .....	584 - 594	102

### **List of abbreviations**

AfDB	African Development Bank
BESSIP	Basic Education Sub-Sector Investment Programme
CBO	Community-Based Organizations
CDD	Control of Diarrhoeal Diseases
CIDA	Canadian International Development Agency
CHH	Chainama Hills Hospital
CHIN	Children in Need Network
CRC	Convention on the Rights of the Child
CYC	Community Youth Concern
DETVET	Department of Technical Education and Vocational Training
DANIDA	Danish International Development Agency
DFTD	Department for International Development (British)
ECCED	Early Childhood Care Education and Development
ECS	Education Cost Scheme
EPI	Expanded Programme on Immunization
EU	European Union
FAMR	Finnish Association on Mental Retardation
FINNIDA	Finnish International Development Agency
FNP	Food Nutrition Policy
GRZ	Government of the Republic of Zambia
HCC	Health Care Cost Scheme
IDA	Iron Deficiency Anaemia
IDD	Iodine Deficiency Disorders
IEP	Individualized Education Programme
ILO	International Labour Organization
IMCI	Integrated Management of Childhood Illnesses
JICA	Japanese International Cooperation Agency
LUCOTEHA	Lusaka College for Teachers of the Handicapped
MHA	Ministry of Home Affairs
MCDSS	Ministry of Community Development and Social Services
MCH	Maternal and Child Health

MOE	Ministry of Education
MOH	Ministry of Health
NAC	National Arts Council
NID	National Immunization Days
NORAD	Now known as Norwegian Embassy Royal and NORAD
NPA	National Programme of Action
OPEC	Oil Petroleum Exporting Countries
ORS	Oral Rehydration Salts
PAGE	Programme for the Advancement of Girls' Education
PWAS	Public Welfare Assistance Schemes
SEN	Special Educational Needs
SIDA	Swedish International Development Agency
SSN	Social Safety Net
STD	Sexually-Transmitted Diseases
TGR	Total Goitre Rate
UCI	Universal Child Immunization
UNFPA	United Nations Population fund
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund
USAID	United States International Development Agency
UTH	University Teaching Hospital
VAD	Vitamin A Deficiency
VSU	Victim Support Unit
VVF	Vesicle Vaginal Fistula
WHO	World Health Organization
YMCA	Young Men's Christian Association
ZDHS	Zambia Demographic and Health Surveys
ZPAN	Zambia Plan of Action on Nutrition
ZAMISE	Zambia Institute of Special Education
ZCH	Zambia Council for the Handicapped
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCR	Office of the United Nations High Commissioner for Refugees
YWCA	Young Women's Christian Association

## **Executive summary**

Zambia signed the Convention on the Rights of the Child (CRC) in September 1990 and ratified it on 6 December 1991. In the 10 ensuing years since ratification, some of the national laws and policies have been brought into line with the principles of the Convention. This report reviews the progress Zambia has made in implementing the Convention.

This is Zambia's initial and first report. It comprehensively captures the events and trends that have taken place since CRC was signed and ratified. The report is divided into nine chapters, preceded by an introduction to the country.

### **Chapter I - General measures of implementation**

This chapter gives an overview of the actions taken by Zambia to implement CRC. Although the Convention has not been fully domesticated, there are a number of constitutional and legislative provisions, which cover everyone and, therefore, protect the rights of children. The Constitution encompasses a Bill of Rights that protects a number of fundamental rights and freedoms of the individual.

In addition to constitutional and legislative protection, there are national policies aimed at improving the welfare and quality of life of children in Zambia. The National Child Policy, National Youth Policy and National Programme of Action form core guidelines for implementing CRC initiatives.

Since ratifying CRC, Zambia has made progress in the following areas:

- (a) There is widespread information dissemination and increased awareness of CRC among the general public;
- (b) Support provided to gender and development activities to combat discriminatory practices arising from gender bias;
- (c) Government and civil society have made a commitment to eradicate violence against women and children;
- (d) Government and civil society have recognized orphans and other vulnerable children as an emergency issue and are committed to assisting children in need.

There are challenges and constraints to supporting implementation of child rights endeavours. For example, a significant proportion of the existing legislation reflects built-in biases from the pre-CRC period. This is manifested in language, e.g. "illegitimate child" and, sometimes, usage, e.g. the limitations of statutory law to protect females from child marriages.

### **Way forward**

Priority will be given to increasing efforts to ensure compliance with the provisions of the Convention. This exercise will involve continuing to identify legislation that requires amendment or repeal to ensure the protection of children's rights. The exercise of identifying legislation requiring action is well under way.

### **Chapter II - Definition of a child**

Article 1 of the CRC recognizes a child to be a person under 18 years. However, Zambian legislation and social and economic policies are less definitive. The definition of a child is relative and dependent on context, specific piece of legislation, legal system (customary and statutory) and purpose. The Constitution as the supreme law of the land does not define a child.

There has been little progress in harmonizing laws and practice although efforts are being made to develop a common definition.

### **Way forward**

The State party is working towards harmonizing different pieces of legislation into a comprehensive body of child-related laws, which will be in conformity with the CRC.

### **Chapter III - General principles**

There are three main general principles: non-discrimination, best interest of the child and respect for the views of the child. Children are protected by the Constitution and various legislation from specific acts of discrimination. However, in practice, traditional norms and values intervene and facilitate acts of bias. The most notable form of discrimination is gender bias.

Several articles of Zambian legislation provide protection to children's rights by advocating the "best interest" principle. However, monitoring and enforcement mechanisms are weak and what actually transpires may not be in the best interest of a child.

Respect for children's views may be one of the more difficult principles to comply with. Children are heard in various forums, but their views may not always receive the degree of serious consideration they deserve. Zambia is still a society in which elders are perceived as being always wise and children as immature and sometimes foolish. Such perceptions are major challenges to the implementation of the principle.

### **Way forward**

(a) To ensure realization of enacted legislation and government policies to implement the provisions of CRC, the monitoring and enforcement system will require strengthening;

(b) The environment in which CRC is implemented is negatively affected by the high level of poverty currently experienced by many Zambian households. A national poverty reduction strategy is in place, and strategies to intensify interventions in the social sector have been prioritized.

#### **Chapter IV - Civil rights and freedoms**

Protection of a child's name and identity are basic rights, which often provide the key to accessing goods and services in society. The basic right of citizenship, for example, is premised on identity. Other rights discussed in this chapter are freedom of expression, access to information, freedom of thought, freedom of association and assembly, protection of privacy and freedom from torture and degrading treatment.

Challenges to the enforcement of the civil rights and freedoms advocated in CRC are: the difficulties faced by some parents in registering their children in accordance with the requirements of the Registration of Births and Deaths Act, the fees charged for registration, and the desire on the part of parents to control their children's access to information and religious choices.

#### **Way forward**

(a) The need to decentralize some of the Registry's functions and to computerize its processes has been recognized as a priority;

(b) Representation will be made to the Government to consider suspending the requirement of fees for registration of births and deaths;

(c) Advocacy and information, communication and education activities on CRC require intensification to bring about awareness and compliance;

(d) Efforts will be made to domesticate the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

#### **Chapter V - Family environment and alternative care**

A relatively large number of children lack access to parental guidance and support because of illness or death of parents, or the preoccupation of parents with earning a living. The extended family has been the traditional social safety net in the midst of hardship and family problems. However, the increasing burdens of poverty and HIV/AIDS are straining the family network and making it less effective in responding to the challenges of child-rearing in today's socio-economic climate.

There are various legislative and policy measures in place to assist families to fulfil their parenting responsibilities. Unfortunately, these measures are modest and insufficient. Protective measures exist to ensure children's rights are not violated when separation from parents is necessary.

Challenges to the enforcement of CRC provisions include lack of disaggregated data on the number of children living in difficult circumstances, and the exact nature of the problems they are encountering. A major problem overriding these challenges is the lack of a specific body of Zambian child laws to guide a coordinated response to problems faced by vulnerable children.

### **Way forward**

(a) Capacity-building of human resources in government departments to implement and monitor legislation and policies designed to improve family and child welfare.

## **Chapter VI - Basic health and welfare**

This chapter considers the health and welfare rights of children, including children with disabilities. Children under 18 years constitute nearly 50 per cent of the population and are the primary users of health and welfare services.

The health reforms of 1991 introduced a package of essential services that address the needs of children as well as other service users. The Integrated Management of Childhood Illnesses Programme is aimed at improving care provided to children under 5 in a holistic manner.

Adolescent reproductive health services, targeting youth between the ages of 10 and 19 have become priorities in the health and welfare sectors. Efforts are being made to protect young people from early pregnancies and exposure to sexually transmitted diseases, including HIV infection.

In spite of efforts to improve health and welfare services, considerable challenges remain. In the early stages of the health reforms, attention was focused on administrative and management issues, particularly setting up a restructured service delivery system. Insufficient attention was devoted to the ability of service delivery points to actually provide quality services. In addition, there has been considerable confusion about user-fee exemptions in terms of entitlements and conditions for accessing the exemptions.

The Government has introduced various social safety net measures in response to the increasing inability of families to cope with poverty, disease and the impact of national debt-servicing efforts. Currently, the level of provisions are modest and there are problems in dispersing available funds.

### **Way forward**

(a) In order to decongest clinics in urban areas, adequate resources should be provided to build new clinics;



(b) Efforts should be made to improve the conditions of service for health personnel to curtail the brain drain of Zambian doctors and nurses to developed countries;

(c) The Ministry of Youth, Sports and Child Development, which presently coordinates NGO youth programmes, should play a more active role in providing services to youth.

### **Chapter VII - Education, leisure and cultural activities**

Education is not a social right and, therefore, not compulsory. During the past decade, enrolment in basic education has been declining. The current socio-economic environment has had a negative impact on educational demand.

The education sector has been undergoing restructuring to improve quality, access and participation. Particular efforts have been made to improve the participation of girls and to ensure that they stay in school. Children and youths with special education needs are considered in the report, as well as the right of disabled children to basic education.

Children's rights to leisure and to a cultural identity are also addressed. Children have the right to rest as well as to engage in play and recreational activities.

#### **Way forward**

(a) The State party acknowledges that, in spite of efforts taken to achieve reforms in the education sector, there is need to prioritize interventions to safeguard and retain the number of pupils in school. Efforts will be made to improve access to education by the most vulnerable groups;

(b) The challenge of preserving one's cultural identity whilst adjusting to changes locally, nationally and globally are issues to be addressed. Access to and mastering technological innovations are critical to Zambia's survival. Yet, maintaining our cultural heritage is equally important. The State party wishes to acknowledge that efforts will be devoted to achieving a harmonious balance.

### **Chapter VIII - Special protection measures**

This chapter covers children in difficult circumstances, for instance, children who are refugees or children accused or convicted of criminal activities, and victims of abuse.

A major challenge is the general lack of information about children in difficult circumstances. Little effort has been devoted to documenting cases of exploitation and abuse. Consequently, public awareness of the problems faced by children in difficult circumstances is poor.

**Way forward**

- (a) Review legislation on refugees;
- (b) Establish separate detention centres at police stations so that children are separated from adults when they have to be detained;
- (c) Review and amend the Acts dealing with dangerous drugs;
- (d) Increase budgetary allocations to activities designed to enhance drug awareness.

The State party concludes that the process of reviewing the implementation of CRC underscores a renewed commitment by Zambia to advance the vision of children's rights in the country.

A list of references used in the preparation of the report is attached.\*

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\* Available for consultation at the secretariat.

### Map of Zambia



## Introduction

### ZAMBIA: THE LAND AND ITS PEOPLE

1. Zambia is a landlocked country covering an area of 752,612 square kilometres and consisting of about 2.5 per cent of the area of Africa. It shares borders with the Democratic Republic of Congo and Tanzania in the north; Malawi and Mozambique in the east; Zimbabwe and Botswana in the south; Namibia in the south-west; and Angola in the west.
2. Zambia has good water resources with the following main rivers: the Zambezi, Kafue, Luangwa and Luapula. The major lakes of the country are: the Tanganyika, Mweru, Bangweulu and the man-made Kariba Dam. Zambia has fairly good rainfall with the northern part of the country receiving the highest precipitation, averaging between 1,100 mm to over 1,400 mm annually. The southern and eastern parts of the country have less rainfall, ranging from 600 to 1,100 mm annually, which often results in drought.
3. The country has a tropical climate and vegetation with three distinct seasons: the cool dry winter from May to August, a hot dry season during September and October and a warm rainy season from November to April.
4. The total population in 2001 was 10.2 million.<sup>1</sup> In 1998, 4.8 million people were under 18 years and 1.5 million were under 5 years. Women constitute 51 per cent of the population creating a ratio of 100 women for every 96 men. The population growth rate is presently 2.4 per cent, and has been decreasing as a result of high HIV/AIDS-related deaths and increased poverty levels.
5. Zambia has an adult literacy rate of 86 per cent for males and 71 per cent for females. The gross primary school enrolment ratio is 92 per cent for males and 86 per cent for females. The secondary school gross enrolment ratio was 34 per cent for males and 21 per cent for females in 1998.
6. In 1998, the under-5 mortality rate was 202 per 1,000 live births. Infant mortality rate, i.e. children below 1 year, was 112 per 1,000 live births. Life expectancy at birth has now dropped to 40 years. Thirty-eight per cent of the Zambian population has access to safe water and 71 per cent has access to adequate sanitation. Ninety-one per cent of children under 5 have vitamin A supplementation and 78 per cent of households are consuming iodized salt.
7. Thirteen per cent of infants have low birth weight. Twenty-four per cent are moderately or severely underweight, while 42 per cent are moderately or severely stunted with 4 per cent wasting (UNDP, 1998).
8. The gross national product (GNP) per capita was estimated at US\$ 370 in 1998, and GNP per capita average annual growth rate was -0.9 with an annual rate of inflation of 72 per cent. Eighty-five per cent of the population are poor and live on less than US\$ 1 per day. In 1998, 10 per cent of government expenditure was allocated to health and 18 per cent to education. Overseas development assistance inflow was US\$ 618 million, representing 19 per cent of GNP. Debt servicing was 19 per cent.

## **Culture and religion**

9.      Zambian society is characterized by ethnic diversity with 73 tribal groups. However, few cultural differences exist. The differences that exist are in terms of kinship systems or forms of social organizations, for example, matrilineal or patrilineal systems of lineage. The majority of ethnic groups are matrilineal. There are seven major languages spoken in Zambia, which are: Bemba, Kaonde, Lozi, Lunda, Luvale, Nyanja and Tonga. The official language of Zambia is English.

10.     In the preamble to the Republican Constitution, chapter 1 of the Laws of Zambia,<sup>2</sup> it is stated that the country is a Christian nation. However, other religions such as Baha'i, Greek Orthodox, Hinduism, and Islam are respected and given equal importance and are practised freely in Zambia.

## **The political and economic system in Zambia**

11.     A peaceful and historic transition to a multi-party system of government was achieved in 1991. The Government has continued to work towards entrenching democracy and independence of the judiciary and upholding the rule of law, human rights and fundamental freedoms. In addition, the country has very recently embarked on a programme of good governance, which is intended to build national capacity in the public sector.

12.     Since 1991, the Government has undertaken a series of measures that are meant to restructure and liberalize the economy. These include subsidy removal, liberalization of interest rates, exchange rates and prices, trade liberalization, tight money supply policy, and tax reforms. A cash-based expenditure system was introduced as the cornerstone of fiscal policy.

13.     Zambia faces a real development challenge. The overall level of human development appears to be receding. Poverty, as indicated by the head count index, intensity and poverty gap, increased during the 1990s.

14.     In the educational sphere, net enrolment rates in primary schools are declining and the quality of overall education has deteriorated. Also, the health sector has not been spared. Infant and under-5 mortality rates have risen and are worsening, especially, in urban areas. The main contributing cause is the HIV/AIDS pandemic.

15.     The Zambian economy has not been able to generate economic growth on a sustained basis. Positive growth rates that occurred in the early 1990s were sandwiched by the negative growth rates in the preceding and subsequent years. Underpinning this very difficult situation are three major and viciously interactive forces, namely: debilitating debt, HIV/AIDS and poverty and deprivation. They constitute a tripod of barriers to Zambia's social and economic development.

16.     Zambia's debt burden has been a major problem for many years and will remain a vexing one for some time to come. Zambia belongs to the category of the Heavily Indebted Poor Countries. The burden of servicing a huge external debt has taken a heavy toll on the national

budget, and severely shrunk resources available for development. Consequently, prospects for growth have been reduced. In the last two decades, Zambia has witnessed declining trends in expenditure on social sectors such as education and health, as debt-servicing obligations have taken first priority. There has been a sharp fall in living standards.

17. HIV/AIDS is now the leading killer disease in Zambia although the burden of ailments such as malaria, diarrhoea and respiratory tract infections continue to be very serious. HIV prevalence is estimated to be one in five adults between ages 15 and 49 years. The Central Statistical Office (CSO) estimated life expectancy at birth at over 52 years in 1980. In 1999, life expectancy at birth had dropped to 37 years (MOH/CBOH, 1999). Every Zambian child born today has a significant chance of contracting HIV and dying of AIDS unless effective interventions are put into place, both by the Government and the international community. HIV/AIDS in Zambia is a national emergency that needs to be addressed with the highest level of political commitment, resources and coordinated action.

18. As pointed out earlier, poverty levels are high and are manifested as hunger, disease and deprivation. Between 1991 and 1998, there was an increase in overall poverty, particularly in urban areas. Poverty causes reduced access to nutrition, income and health services. Poor people become more vulnerable to disease. Poverty has also generated high-risk sexual behaviour, especially among young girls and women.

19. The prevailing environment of poverty and disease has had devastating consequences on the well-being of children. Children need health care, education, good nutrition and a safe and hygienic environment.

20. In spite of the grave picture, the Zambian Government is determined to find a way of putting children first by investing in them and putting into place programmes that will address their needs. The Government is taking steps to revitalize the provision of basic social services. In the 2000 budget, the Government increased allocations to health and education sectors by over 20 per cent of the national budget, thereby demonstrating political will to invest in children.

21. The State party wishes to inform the Committee that in its presentation, all efforts have been made to be open, honest and as factually correct as possible. This is due to the Government's conviction that it is in the country's and children's best interest to present the real situation of children in Zambia.

## **I. GENERAL MEASURES OF IMPLEMENTATION**

22. Zambia signed the Convention on the Rights of the Child on 30 September 1990 and ratified it on 6 December 1991 without any reservations.

23. The Convention has only been partially incorporated into domestic law. International instruments ratified or acceded to are not self-executing, but require enabling legislation to become enforceable.

## **PROVISIONS ADDRESSING THE RIGHTS OF CHILDREN**

### **The Constitution**

24. The Constitution is the supreme law in Zambia. Part III of the Constitution provides a Bill of Rights, which is justiciable, i.e. liable to trial in a court of justice.<sup>3</sup> The rights of children are protected in the following ways:

- (a) Article 11 provides for the protection of the fundamental rights and freedoms of an individual;
- (b) Article 12 provides for the protection of the right to life. Article 12 (1) expressly prohibits a person from depriving an unborn child of life by termination of pregnancy except in accordance with the conditions explicitly stated in an Act of Parliament;
- (c) Article 6 (1) upholds the need to preserve a child's nationality and identity;
- (d) Article 125 establishes the Human Rights Commission, whose functions include investigation of human rights abuses against children.

### **Legislation**

25. In addition to protections contained in the Constitution, a number of statutes contain provisions specifically directed at protecting the rights of children.<sup>4</sup>

26. The Adoption Act, chapter 54, provides for:

- (a) The creation and registration of adoption orders;
- (b) The registration and control of adoption societies;
- (c) The regulation of arrangements made by adoption societies and other persons to adopt children;
- (d) The supervision of adopted children by the Commissioner for Juvenile Welfare;
- (e) The protection of the rights of children by the court by ensuring that any adoption order made is in favour of the child.

27. The Juveniles Act, chapter 53, provides for care and protection of children and juveniles; custody and protection of juveniles in need of care; a system of adjudication for juveniles who are in conflict with the law; correction and rehabilitation of juveniles who are in trouble or in conflict with the law; and the establishment of children's institutions such as orphanages and foster care homes.

28. The Affiliation and Maintenance of Children Act, chapter 64, provides for court orders where paternity is contested, and consolidates the law relating to maintenance of children. The Act brings Zambian law into conformity with CRC in terms of affiliation and maintenance of children.
29. The Employment of Young Persons and Children Act, chapter 274, regulates employment of young persons and children.
30. The Penal Code, chapter 87, establishes the code of criminal law and has provisions for the protection of children's rights.
31. The Wills and Administration of Testate Estate Act, chapter 60, provides for the administration of estates of persons, who made a valid will before dying. The Act also provides for adequate financial and other provisions to be made to dependants in a will. The Act permits the Court to vary provisions of a will if it determines that the estate is unreasonably distributed and would result in detriment to the children of the deceased.
32. The Intestate Succession Act, chapter 59, provides a uniform intestate succession law that is applicable throughout the country to cover a situation where a person dies without having made a will. It makes adequate financial and other provisions for the surviving spouse, children, dependants and other relatives of an intestate. The essence of this Act is to protect children against property grabbing and, therefore, preserve sufficient resources for their survival. Children born out of wedlock are recognized for purposes of succession.
33. The Zambia Police Act - (Amendment) Act No. 14 of 1999 amended the Zambia Police Act, chapter 107, to establish the Police Complaints Authority. The Authority is responsible for disciplinary aspects of the Police Services so as to ensure transparency and accountability to the public. The Act also establishes the Victim Support Unit, which handles all types of abuse, including child abuse, violence against women, property grabbing and victimization of the elderly.
34. The Defence Act, chapter 106, section 14 (2), provides guidelines on the age at which a person can be recruited into the defence forces.
35. The Births and Deaths Registration Act, chapter 51, provides a uniform law for the registration of all births and deaths in Zambia, without distinction of origin or descent.
36. The Day Nurseries Act, chapter 313, provides for registration and regulation of day nurseries.
37. The Probation of Offenders Act, chapter 93, provides for the correction and rehabilitation of juveniles in conflict with the law, and probation of offenders. The Act is also responsible for the establishment of probation hostels and prescribes the activities of these hostels.



## **Policy framework**

38. Three specific policy instruments were developed to promote child welfare in the country. In August 1994, Cabinet Office adopted the National Child Policy, the National Plan of Action and the National Youth Policy.<sup>5</sup> These policy frameworks constitute core guidelines for improving the welfare and quality of life of children as well as for protecting their survival and developmental rights.

39. One of the aims of the National Child Policy is to provide guidelines for improving the welfare and quality of life of children by consolidating all existing and proposed legislation pertaining to children into one easily accessible and comprehensive statute. Another aim is to update laws to incorporate provisions of CRC.

40. The National Youth Policy covers children and young persons,<sup>6</sup> and is administered by the Ministry of Sports, Youth and Child Development.

41. The National Plan of Action (NPA) provides guidelines for achieving total development of children through various survival, developmental and protective rights.

42. A National HIV/AIDS Policy was drafted this year and is currently under review by government departments and NGOs for revisions and approval. The draft policy has provisions for the care and support of orphans and vulnerable children.

## **Sector ministries**

43. In addition to the existence of national overarching policies, individual government ministries have formulated sector policies that have child welfare implications. The Government considers the protection of children to be a cross-cutting issue and various sector ministries have specific mandates to protect the child. The following is a list of ministries and their responsibilities:

- (a) Ministry of Youth, Sports and Child Development promotes child development;
- (b) Ministry of Labour and Social Security regulates employment of young persons and social security matters;
- (c) Ministry of Community Development and Social Services protects families through protection of social welfare and promotion of social environments conducive to development. The ministry also oversees the protection and promotion of cultural traditions;
- (d) Ministry of Health promotes health care through provision of services and information on food and nutrition, and regulates drug supply and availability;
- (e) Ministry of Education provides educational services;

(f) Ministry of Local Government and Housing is responsible for local government, regulation of housing standards, water supply and sanitation;

(g) Ministry of Legal Affairs ensures that children's rights are translated into laws.

44. Streamlining and coordinating child-centred activities for the purpose of promoting efficiency in service delivery and monitoring impact are priorities. In 1994, the Government embarked on the Public Sector Reform Programme, designed to make the civil service more effective and efficient. Child welfare programmes, inclusive of the promotion of children's rights, are expected to benefit from the reforms through rationalization of ministerial portfolios and functions.

### **Judicial decisions in line with the Convention**

45. A number of decisions have been made by the Zambian courts that are in line with the provisions of CRC. Amongst the most notable decisions is the John Banda (HPA/6/1998) case, which provided a landmark decision for protecting children from corporal punishment.

### **Civil society**

46. NGOs and CBOs focusing on child rights and protection issues have proliferated widely during the past few years. A driving force in their creation is the need to respond to the ever-growing number of orphans and vulnerable children as a result of the HIV/AIDS epidemic. Historic NGOs, such as Child Care and Adoption Society, which were created in the 1960s to protect and promote the welfare of children in need of care, are being overwhelmed by the HIV/AIDS crisis. Below is an illustrative list of NGOs and CBOs that are responding to the needs of children:

- (a) Salvation Army Community-Based Orphan Support Programme (Chikankata);
- (b) Bwafwano Home-Based Care and Community Health Care Project;
- (c) Red Cross Drop-in Centre in Garden Compound;
- (d) City of Hope for Girls in Makeni township;
- (e) Fountain of Hope in Kamwala township;
- (f) St. Lawrence Home for Street Kids;
- (g) Anglican Street Kids Centre at Waddington Centre;
- (h) Bauleni Street Kids Training Centre;
- (i) Children's Village (SOS) on the outskirts of Mandevu township;

- (j) Development of People to People Programme (DAPP) Children's Town;
- (k) Livingstone Street Kids Association in Linda township;
- (l) Association for Restoration of Orphans (AROS);
- (m) Copperbelt Health Education Programme.

### **International Conventions**

47. Zambia has ratified the following international human rights instruments:
- (a) International Covenant on Civil and Political Rights;
  - (b) International Covenant on Economic, Social and Cultural Rights;
  - (c) International Convention on the Elimination of All Forms of Racial Discrimination;
  - (d) Convention on the Elimination of All Forms of Discrimination against Women;
  - (e) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
  - (f) African Charter on Human and Peoples' Rights.
48. The following child-related conventions and instruments have been signed by Zambia:
- (a) African Charter on the Rights and Welfare of the Child;
  - (b) Stockholm Convention on the Elimination of All Forms of Child Sexual Abuse;
  - (c) ILO Convention on the Elimination of All Forms of Child Abuse.

### **MECHANISMS AT NATIONAL, PROVINCIAL AND LOCAL LEVELS FOR COORDINATING POLICIES RELATING TO CHILDREN AND FOR MONITORING THE IMPLEMENTATION OF THE CONVENTION**

49. The State party wishes to report that it has taken all measures to ensure that implementation at all levels is achieved, using maximum available resources to realize the economic, social and cultural rights of children in Zambia.

50. A partnership between the Government and civil society has evolved through various efforts to protect the rights of children and promote their general welfare. Both government and civil society have independent coordinating mechanisms to promote policies and programmes in the interest of children. In addition, there are forums in which government and civil society work together.

51. CRC/NPA District Committees have been established as a means of accelerating sensitization programmes and coordinating CRC initiatives at district level.

52. An umbrella body for NGOs working in the field of children's rights and welfare has been established. The organization is known as Children in Need Network (CHIN).

53. There is a strong collaboration with cooperating partners, particularly the United Nations Children's Fund (UNICEF), in the implementation of the National Plan of Action for Children in Zambia.

### **PROPORTION OF THE BUDGET DEVOTED TO SOCIAL EXPENDITURES FOR CHILDREN**

54. Since the last quarter of 1991, the Government has implemented a number of major economic policy changes (see paragraph 12 above). The Government aims to revitalize the economy through these policies and achieve economic, social and cultural rights of children through more investment in the health, education, water and sanitation sectors.

55. Trends in the macroeconomic policy performance since 1991 are shown in Table 1.

**Table 1**

#### **Selected indicators of macroeconomic performance, 1991-1999**

Year	Real GDP growth rate (%)	Inflation rate (%)	Budget deficit (% GDP)	Current account balance (million \$)	Exchange rate (K/\$)
1991	-0.4	93.0	6.1	-447.7	64.63
1992	-1.7	197.4	3.5	-154.6	172.21
1993	6.8	189.0	2.5	-96.8	452.7
1994	-8.6	55.6		-118.2	670.0
1995	-4.3	34.9		-140.6	864.6
1996	6.4	43.5	-1.0	-200.1	1 213.6
1997	3.5	24.8	-1.2	-437.0	1 321.3
1998	-2.0	27.0		-516.0	2 343.0
1999	2.4	20.6	-0.01	-500.0	2 688.0

Source: Zambia Human Development Report, 1998.

56. The average growth rate during the period 1991-1999 was modestly positive. In 1997, the growth rate was 3.3 per cent, in 1998 it was -2 per cent, while in 1999 it was 2 per cent.

57. The State party wishes to report that during the period 1992-1998, 18 per cent of the national budget was allocated to the education sector and 10 per cent to the health sector. Although these allocations are not child-specific, a significant proportion of the service users are children.

58. In 1998, the estimated total for Overseas Development Assistance was US\$ 618 million for the entire budgetary expenditures. The State party defers discussions on the proportion of development assistance allocated to health and education sectors to chapter VI of the present report.

### **MEASURES TO LIMIT DISPARITIES BETWEEN DIFFERENT GROUPS OF CHILDREN**

59. The Public Welfare Assistance Scheme (PWAS) was established to protect disadvantaged groups from adverse effects of economic policies in the country, and is administered by the Ministry of Community Development and Social Services. The scheme provides limited financial support, basic food, exemption from fees for education and health services, and repatriation of vulnerable persons to their homes.

60. Priority beneficiaries are street children, orphans, children in protective care, old people and young people in rehabilitation/correctional institutions. PWAS financial allocations are meagre. In 1999, only K2.8 billion out of a K4 trillion Kwacha budget was allocated. The number of applications for assistance has been growing over the years and overburdening the scheme.

61. The health-care sector has a safety net system for four categories of users. Exemptions from user fees are given to children below age 5 and to adults aged 65 years and above. All antenatal and post-natal care, as well as treatments for chronic illness such as tuberculosis, sexually-transmitted diseases and HIV/AIDS, are exempted from user fees.

### **MEASURES TAKEN TO MAKE THE PRINCIPLES AND PROVISIONS OF THE CONVENTION WIDELY KNOWN**

62. Since ratifying CRC on 6 December 1991, Zambia has been going through the process of making the principles and provisions of the Convention widely known to adults and children. This has taken place in a variety of ways and with varying intensity.

63. The following measures have been taken to inform adults and children about the Convention:

(a) Since 1994, regular broadcasts on Zambia National Broadcasting Corporation radio and television station have been conducted to raise awareness about children's rights, and a weekly programme on Radio Phoenix is devoted to children's issues;

(b) Celebration of the International Children's Day of Broadcasting in December is an annual event with sufficient television and radio coverage provided to mark the day. The focus of the Day's celebrations is CRC;

(c) Periodically, articles focusing on children's rights appear in the print media;

(d) Several workshops and seminars have been organized on the rights of the child with participants drawn from government and civil society organizations that work on the protection of the rights of children;

(e) CRC has been integrated into the general framework of human rights awareness in school curricula and parents' educational campaigns;

(f) The Government has adopted the Capacity Building Programme for Good Governance, which has a comprehensive approach to human rights education, inclusive of CRC, and is aimed at building the capacity of public service workers to appreciate human rights issues. Public officials such as teachers, medical personnel, police, judges and social workers, are targeted by the programme.

64. A popularized version of CRC has been translated into seven major local languages. Zambia has 73 languages, which makes the process of translation a serious challenge that requires a systematic approach over a period of time. English is the official language, and a simplified version of the Convention in English has been produced and widely circulated. It is the intention of the Government to ensure that the report is widely available in the country's main languages.

65. The process of translating the Convention into languages spoken by refugee and immigrant groups in the country and making it available to them has not yet been initiated.

#### **MEASURES ADOPTED TO ENSURE WIDE DISSEMINATION AND CONSIDERATION OF THE SUMMARY RECORDS**

66. A study was conducted in 1997 in Lusaka, Livingstone and Solwezi to ascertain the extent of awareness of children's rights in Zambia. Of the 745 respondents sampled, only 19 per cent were aware of CRC.<sup>7</sup>

67. The State party wishes to inform the Committee that the reporting process started in July 1997, and was preceded by the formation of an Inter-ministerial Committee on Human Rights and Humanitarian Law Reporting.

68. The President of the Republic of Zambia formally launched the Inter-Ministerial Committee in September 1997, and this launched the formal commencement of CRC report preparation process.

69. The reporting process involved compiling data and information, legislation and services for the care and protection of children. Consultations were held with children, adults and various service providers in both urban and rural areas. The objective was to compile stories, issues and concerns of everyone living in Zambia for inclusion in the report.

70. Unfortunately, the report was not finalized at the time the initial report was due because of numerous constraints encountered during the period. Although the first State party report was due in 2000, it, too, was not finalized in time. Hence, the State party decided to submit a consolidated initial and first report.

71. Because this is Zambia's initial and first report on CRC, it is foreseen that wide dissemination and consideration of the summary records and the concluding observations adopted by the Committee will be given media coverage.

## **ACHIEVEMENTS**

72. The State party wishes to report that during the period under review, the following achievements in the realization of children's rights were made:

- (a) Development of a National Child Policy and the approval of the National Plan of Action by the Cabinet;
- (b) The President declared 1992 as the Year of the Zambian Child;
- (c) The Day of the African Child has been regularized into an annual event;
- (d) The Head of State has formally committed himself to the formation of a Young People's Parliament;
- (e) A National HIV/AIDS Council has been established and contains a strong component on children;
- (f) In 1999, Zambia signed the Southern Africa Development Community (SADC) Declaration on Gender and Development and its Addendum on the Prevention and Eradication of Violence against Women and Children. In order to implement the programme the Government appointed a technical committee to review all matters pertaining to violence against women and children and to make recommendations on all measures necessary to address the problem, including proposing new legislation;
- (g) A National Steering Committee on Child Labour was appointed and a Child Labour Unit established in the Ministry for Labour and Social Security;
- (h) Zambia ratified ILO Convention No. 182 on the Worst Forms of Child Labour, and joined the International Programme on the Elimination of Child Labour (IPEC);
- (i) The Medical Examination of Young Persons (Underground) Act, chapter 216, was enacted. The Act provides for ascertainment of the physical fitness of young persons seeking employment in mines;
- (j) Legislation that provides alternative sentencing and community service for mothers was enacted to provide alternatives to custodial sentencing so that mothers will not be separated from their young children;
- (k) Establishment by the Drug Enforcement Commission (DEC) of the National Education Campaign Division as a department to initiate and implement drug awareness programmes in secondary and basic schools, colleges, universities, workplaces and the general community.

## **CONSTRAINTS AND CHALLENGES**

73. During the reporting process, the State party identified the following constraints and challenges in the existing legislation:

(a) The Legitimacy Act, chapter 52, uses the term “illegitimate child” for children born out of wedlock, thereby attaching a stigma to children in this situation;

(b) The Marriage Act, chapter 50, does not cover marriages contracted under customary law. The latter permits child marriages and, thus, circumvents the protective provisions of the Marriage Act;

(c) The Criminal Procedure Code, chapter 88, makes it a requirement that a child’s evidence is corroborated. This is a constraint to prosecuting offenders, particularly in cases of child abuse;

(d) The Liquor Licensing Act, chapter 167, provides for the regulation of the sale and supply of intoxicating liquors. However, the provisions are inadequate, and contain discrepancies in terms of age categorization.

74. A number of other challenges affecting the rights of children have been identified, and these include:

(a) Unregulated children’s centres or homes, particularly those providing services to orphans, vulnerable children and those in difficult circumstances. The difficulty is how to monitor the activities of these homes;

(b) The exponential growth of street children is proving to be a great challenge to the Government;

(c) As the numbers of street children increase, sodomy committed by older boys on younger boys is manifesting itself as one of the worst forms of child abuse;

(d) Increase in drug abuse, particularly among juveniles;

(e) There is no legislation dealing specifically with HIV/AIDS. The issue of a person infected with HIV/AIDS intentionally contaminating another person is seriously being considered for legislative action.

## **WAY FORWARD**

75. Priority will be given to increasing efforts to ensure compliance with the provisions of the Convention. This exercise will include continuing to identify legislation that requires amendment or repeal to ensure the protection of children’s rights. The exercise of identifying legislation requiring action is well under way.



## II. DEFINITION OF A CHILD

76. The Constitution does not provide a definition of a “child”. Age of majority is subject to various interpretations, depending upon the specific law under application. Gender differences in the definition of a child do not exist. However, application of the definition may create disparities in social practice.<sup>8</sup>

77. Customary law recognizes a child as a person who has not yet reached puberty.

### **Citizenship, national registration and the right to vote**

78. Article 6, paragraph 1, of the Constitution entitles any person who has attained the age of 21 years and meets all other requirements to apply for citizenship.

79. Section 3 of the National Registration Act, chapter 126, stipulates that a person is entitled to receive a national registration card upon attaining the age of 16 years.

80. Under article 75, paragraph 1, of the Constitution, every Zambian who has attained the age of 18 years is entitled to vote.

### **Criminal responsibility, punishment and deprivation of liberty**

81. The Juveniles Act, chapter 53, provides definitions for “child”, “juvenile” and “young person”. “A child means a person who has not attained the age of 16 years. A juvenile means a person who has not yet attained age 19 years, and a young person means a person who has attained age 16 years but has not attained age 19 years.”

82. According to the Penal Code, chapter 87, a child below 8 years is not criminally responsible for his or her actions. The criterion of puberty is not used in criminal law.

83. Depriving a child of liberty can only be done under very restricted circumstances. Children are protected from imprisonment or detention under the Juveniles Act.

84. Section 25 (2) of the Penal Code, chapter 87, prohibits the death sentence against a person under the age of 18 and provides that “... in lieu thereof the court shall sentence him to be detained during [sic] the President’s pleasure and when so sentenced he shall be liable to be detained in such a place and under such conditions as the President may direct”.

### **Legal and medical services**

85. Although there is no minimum legal age for consent in practice, no medical treatment or surgery can be done on a person below age 21 unless a parent or guardian has given written consent.

86. The rationale for the practice is that any person below 21 years is considered to be a minor. A minor is defined as a person who cannot exercise or undertake certain legal action

without the guidance or consent of either parents or guardian. However, the State party wishes to indicate that this is an area in which medical ethics and practice are biased towards protection of the child. Therefore, parental consent can be dispensed with if, in the opinion of the medical practitioner, this is in the best interest of the child.

87. There is no minimum legal age for consent to legal or medical counselling, but practice recognizes age 21 to be so in the absence of consent by a parent or guardian.

### **Education**

88. There is no provision in the law for compulsory education in Zambia. However, it is government policy under the Basic Education Sub-sector Investment Programme (BESSIP) that nine years of basic education should be mandatory.

### **Admission to employment**

89. The Employment of Young Persons and Children Act, chapter 274, prohibits employment of children below age 14, unless the employment is an enterprise where members are of the same family.

90. The Apprenticeship Act provides for engagement of a person between ages 16 and 21 years, provided the person is under the tutorship of an adult.

### **Consent to marriage**

91. The Marriage Act, chapter 50, stipulates that any person below 21 years requires written consent of a parent or guardian before a marriage is contracted. However, customary law allows the contracting of marriage after attainment of puberty subject to parental consent.

### **Sexual consent**

92. There is no express provision for age of sexual consent. However, section 138 of the Penal Code, chapter 87, prohibits defilement of girls below age 16 years. Based on this law, the minimum age for sexual consent is assumed to be 16 years.<sup>9</sup>

### **Age for military service**

93. The Defence Act, chapter 106, stipulates that a person under the apparent age of 18 years cannot be recruited into the defence forces unless written consent is given by a parent or guardian, or the District Secretary in the district in which the person resides. There is no provision for conscription.

94. Legally, a child cannot participate in hostilities and the problem of child soldiers does not exist in Zambia.

### **Giving testimony in court**

95. Acceptance of a child's testimony in court in civil and criminal cases is dependent upon the judge's assessment of the child's competence. The Judges Rules require that the court be satisfied that a child understands the meaning of truth. Once this is established, the child's evidence is admissible in both criminal and civil cases.

### **Lodging of complaints or redress before the court**

96. The Rules of the English Supreme Court are used in Zambia regarding children lodging complaints or seeking redress. Anyone below the age of 18 years lodging a complaint or seeking redress must commence proceedings through a "next of friend", who is understood to be a parent, a guardian or a court-appointed trustee.

### **Participation in administrative and judicial procedures**

97. Participation in administrative and judicial procedures by a person below age 18 is normally done through a next of friend. However, the court has discretion to hear the testimony of the child. This discretion is exercised if it is determined to be in the child's interest.

### **Identity change and modification of family relations**

98. A child's name and guardianship can be changed within the context of specific laws. (For further details, see chapters III and V.)

99. The legal change of a child's name can only be made with the consent of the parent or guardian.<sup>10</sup>

100. Adoption or legal guardianship is regulated by section 4 (1) of the Adoption Act, chapter 54.

### **Capacity to inherit and conduct property transactions**

101. The Wills and Administration of Testate Estates Act, chapter 60, and the Intestate Succession Act, chapter 59, define a minor as a person who has not attained the age of 18 years. However, a minor can inherit property, but not have legal capacity to conduct property transactions until attainment of 21 years, as provided by the Trust Restriction Act, chapter 63.

### **Formation of an association**

102. The Societies Act requires that a person should not be less than 21 years of age before forming an association. However, a child is free to join associations as long as he or she meets the requirements for membership.

### **Religious choice**

103. The Constitution guarantees freedom of conscience, thought and religious worship irrespective of age. (For details on freedom of thought, conscience and religion, see chapter IV.)

### **Consumption of alcohol**

104. Under the Liquor Licensing Act, chapter 167, the sale of alcohol to a person below age 18 is prohibited.

### **ACHIEVEMENTS**

105. The State party hopes to make achievements in harmonizing definitions of the child and will record this in its next periodic report.

### **CONSTRAINTS AND CHALLENGES**

106. The State party wishes to acknowledge that in the Zambian context the definition of a “child” is problematic because it is dependent upon specific circumstances and situations. The problem is particularly manifested in the customary law system where the age of maturity is the attainment of puberty. This type of definition actually results in child marriages where a girl of 14 years can legally marry under customary law. However, the State party wishes to affirm that there is no difference between Zambia’s statutory legislation and the Convention on the definition of a child.

### **WAY FORWARD**

107. The State party is working towards harmonizing different pieces of legislation into a comprehensive body of child-related laws, which will be in conformity with CRC.

## **III. GENERAL PRINCIPLES**

### **Non-discrimination**

108. The principle of non-discrimination is a binding principle which is contained in article 23 of the Constitution, and possible grounds for discrimination set forth in article 2 of the Convention are prohibited. Although specific reference to children is not made, the absolute prohibition against discrimination contained therein is of fundamental importance and provides protection to children’s rights. Non-nationals, refugees and asylum-seekers are protected by the same prohibition.

109. Gender bias is a widespread social practice in Zambia in spite of the constitutional provision against discrimination. A National Gender Policy was formulated to address the problem. The policy provides guidelines and targets for government departments and NGOs in the promotion of gender equality.

110. Specific measures have been taken to eliminate discrimination against girls. Education of the girl-child has become a national priority (see chapter VII).

111. Severe economic shocks combined with rapid social change has severely curtailed the ability of the Government to address economic, social and geographical disparities affecting the most disadvantaged groups of children in society, e.g. children with disabilities, children of migrants, displaced people, refugees, asylum-seekers and children who are living or working on the streets. Consequently, only modest measures have been taken to reduce such disparities.

112. Comprehensive disaggregated data on disadvantaged and vulnerable children is not available. However, at the time of compiling this report a national census was completed, enumerating orphans and vulnerable children. This information should become available after completion of data analysis.

### **BEST INTERESTS OF THE CHILD**

113. The principle of best interests of the child is not expressly stated in the Constitution. However, a number of statutory provisions exist, which are manifestly in the best interest of the child (for further details, see chapters I and II).

#### **Children and the justice system**

114. Children in conflict with the law are protected through legislative provisions, such as the Juveniles Act and Penal Code. Cases involving juveniles are held in camera and the children's names are withheld from the public.

115. A regulatory framework is in place to guide administration of the juvenile justice system, and the placement and care of children in institutions. Zambia's system of juvenile justice is in the process of review to bring it in compliance with the provisions of the Convention. This will undoubtedly enhance the protection of children's rights.

116. When a marriage is dissolved by the court, the judge's decision to award custody of a child to either parent is based on the principle of best interests of the child. A social worker is assigned to investigate and make recommendations on a course of action that would promote the welfare of the child.

#### **Child abuse and neglect**

117. Protection of children from sexual abuse and exploitation is provided by 24 separate pieces of statutory legislation. However, in practice such cases, particularly incest, are rarely reported to the police because of fear of witchcraft or embarrassment.

118. Although the Victim Support Unit of the Police Service is increasingly accepted and utilized by the general public, the police appear to be ill-equipped to deal with cases involving sexual abuse of children (YWCA, 1999).

119. Further complicating the situation is the presence of a dual system of law, e.g. statutory and customary laws. Customary law allows parents or guardians to obtain financial compensation from the perpetrator through payment of a fine. Cases that have the potential to be settled in this manner generally are not reported to police or are withdrawn, once an agreement between the parent or guardian and the perpetrator has been achieved. Cruelty to children by parents or guardians is prohibited under Section 46 of the Juvenile Act. Section 48 criminalizes the act of custodians allowing persons under the age of 16 years to be in brothels.

### **Family life and adoption**

120. Zambia has a very strong and functional extended family system, but increased levels of poverty and the growing numbers of orphans present very serious problems to families and compromise their ability to care for and protect their children. A negative consequence is the growing number of street children, some of whom have been abandoned by their families.

121. Children have the legal right to maintenance from their parents, and it is socially acceptable in Zambia that parents or guardians have a moral obligation to care and provide for their children. In preserving the best interests of the child, the Affiliation and Maintenance of Children Act, chapter 64, provides for court orders concerning paternity and consolidates the law relating to the maintenance of children for the protection of their rights. The Act also brings Zambian law into conformity with CRC regarding affiliation and maintenance of children.

122. The Intestate Succession Act, chapter 59, makes adequate financial and other provisions for the surviving spouse(s), children, dependants and other relatives of the intestate and provides for the administration of the estates of persons who have died before making a will.

123. Section 34 of the Intestate Succession Act protects beneficiaries of an estate. Under Section 35, it is an offence for an administrator or guardian to wrongfully deprive a minor of property or a share in property to which the minor is entitled. The administrator or guardian is not allowed to derive any pecuniary benefit from his or her office.

124. During adoption proceedings, and when considering placement of children into foster care, the overriding consideration is the best interest of the child.

### **Other legislation to promote the best interests of children**

125. The Employment of Young Persons and Children's Act, chapter 274, seeks to prevent the exposure of children to harsh working conditions by establishing a minimum contractual age for employment.

126. The Apprenticeship Act, chapter 275, section 9 (1), empowers the Controller of Apprenticeship, who is a public officer, to grant written permission to a person wishing to employ a minor in a designated trade. This measure is meant to protect the interest of minors.

127. The Liquor Licensing Act, chapter 167, prohibits employment of persons under the age of 18 years in bars and other places where liquor is sold.

128. The Day Nurseries Act, chapter 393, and the Public Health Act, chapter 295, establish appropriate standards for all public and private institutions, services and facilities responsible for the care and protection of children. These are to ensure conformity with acceptable standards of care, particularly in the areas of health, safety, number of children served and suitability of their staff to provide competent supervision.

## **RIGHT TO LIFE**

129. The State party wishes to inform the Committee that the right to life is guaranteed by the Constitution. Article 12 (1) stipulates the conditions under which a person can be legally deprived of life, and article 12 (2) protects the life of an unborn child except under conditions in which termination of pregnancy is legal. Section 203 of the Penal Code, chapter 87, protects children from infanticide.

130. Although the Constitution guarantees the right to life, it does not fully protect the life of unborn physically and/or mentally disabled children. The Termination of Pregnancy Act, chapter 304, makes a provision for abortion on the grounds that the unborn child “would suffer from mental abnormalities or be seriously handicapped”. The concurring opinion of three doctors, who have been designated to make such a decision, is necessary before termination can be effected.

## **Right to survival and development**

131. Survival and development of children are major objectives of the National Child Policy, which aims to reduce moderate and severe malnutrition in children, and to expand early childhood care and development programmes throughout the country to promote the healthy development of children.

132. “Health for All” is the theme of the National Health Strategy, one aim of which is to reduce infant mortality rate from 108/1000 to 65/1000 live births.

133. Measures taken to reduce childhood morbidity and mortality include a national campaign to control diarrhoeal diseases, and the establishment of an integrated system for management of childhood illnesses. Additional details will be provided in chapter VI (Basic Health and Welfare).

134. Survival and development of unborn children are promoted through provision of maternal health-care services, which are antenatal care during labour and delivery, post-natal care of the newborn and essential obstetric care.

135. The formal and informal education systems are largely responsible for fostering mental, spiritual, moral and psychological development of children. The Ministry of Education assists this process by training pre-school and primary schoolteachers in how to facilitate the holistic development of a child. (For additional information on education, see chapter VII.)

136. The State party recognizes that socialization of children begins from the time of birth. Children are moulded by the cultural values and norms of the environment in which they develop and mature. Children's participation in religious and traditional ceremonies is encouraged by parents and the community to build a strong character.

137. Reduction in risk to adolescent pregnancy, sexually transmitted infections, drug abuse and delinquency is coordinated by the Ministry of Youth, Sports and Child Development. The ministry works in close collaboration with NGOs, such as Planned Parenthood Association of Zambia, Family Life Movement, Society for Family Health, Community Youth Concern and Young Women's Christian Association. Government collaborators include the Ministry of Health, the Ministry of Community Development and Social Services, the Ministry of Home Affairs and the Ministry of Education. The Ministry of Health provides technical leadership for youth programmes of this nature.

#### **Registration of death of children**

138. Section 4 of the Births and Deaths Registration Act, chapter 51, provides a uniform law for registration of all births and deaths in the country, without distinction of origin or descent.

139. The State Party wishes to report that cases of suicide committed by children do occur in Zambia, but that there is no disaggregated data on their number and causes.

#### **RESPECT FOR THE VIEWS OF THE CHILD**

140. The State party wishes to report that freedom of expression is protected under article 20, paragraph 1, of the Constitution. Details of the article are provided in chapter IV of the present report.

141. The State party wishes to acknowledge that prevailing cultural norms and social practices seriously curtail the right of children to express themselves freely. Unfortunately, it is still true that children are seen and rarely heard.

142. Female children are more adversely affected than males although this situation is changing due to the influence of formal education and exposure to enlightened adults, who encourage children to express their views more openly.

#### **In school**

143. The formal educational setting offers many opportunities for children to participate in decision-making and assume leadership roles, such as serving as prefects, monitors or class captains, taking part in disciplinary hearings and making recommendations to teachers on the provision of text books, desks or chairs.

144. The State party wishes to inform the Committee that classroom education in Zambia is examination-oriented; hence, there is considerable interaction between teachers and pupils. During the interaction, pupils are encouraged to participate and express their views in order to optimize their performance in examinations.



**Asylum-seeking procedures**

145. Whether accompanied or unaccompanied by their family, children are given an opportunity to make submissions before the government body that determines eligibility and official refugee status. The child's submission can be made in his or her native language. Interpreters are provided to translate into English (Communication from the Ministry of Home Affairs, Office of the Commission for Refugees).

**In adoption matters**

146. The Adoption Act, chapter 54, provides for the court's satisfaction that the child's views are expressed regarding placement for adoption or institutional care.

**Measures taken to raise awareness of families and the general public**

147. The State party wishes to report that it has consistently used the opportunities provided by annual celebrations of Youth Day, the International Children's Day of Broadcasting, and the Children's Summit to sensitize parents and the general public to the need for children to express their views and concerns. During these occasions, child representatives are given an opportunity to have direct contact with national leaders and decision makers, who listen to their submissions.

148. The training curricula for judges, probation officers, police officers, social workers, teachers and nurses include child development and psychology courses. This encourages a holistic approach to matters relating to children. Professional service providers are encouraged to interact with children in a manner that promotes a free dialogue and communication.

149. Courses on CRC are offered on an annual basis at the University of Zambia as part of the postgraduate diploma in human rights law. The Zambia Institute of Advanced Legal Education offers a similar postgraduate diploma.

150. The State party wishes to advise the Committee that the process of enacting new legislation begins with assimilating public opinion, which includes the views of children, consultations and an assessment of complaints. The State party also wishes to bring to the Committee's attention that children were consulted and their views were sought in the process of preparing the present report.

**ACHIEVEMENTS**

151. During the period under the review, the following achievements in the realization of children's rights were recorded:

(a) The Ministry of Education launched the Programme for the Advancement of Girl Child Education (PAGE). The programme is now fully operational;

(b) An umbrella NGOs' network, Children in Need Network (CHIN), was created to coordinate NGO efforts at improving the welfare of orphans and vulnerable children;

(c) There are 11 drop-in centres for homeless children situated throughout the country;

(d) An Adolescent Reproductive Health Consortium to coordinate adolescent reproductive health interventions in the country was formed;

(e) Youth Day and the Children's Summit have become annual events that provide a forum for publicizing CRC and Zambia's progress in implementing the Convention;

(f) Professional service providers, particularly those engaged in services where children are the prime beneficiaries, are trained to work more effectively with children and to respect children's views regarding care and support services;

(g) CRC is integrated into select tertiary training programmes, i.e. postgraduate diploma programme at the University of Zambia.

## **CONSTRAINTS AND CHALLENGES**

152. Traditional norms and values operate against children effectively participating in decision-making processes and having their ideas and opinions seriously considered.

153. Gender bias continues to be widespread in spite of the development of a National Gender Policy to rectify situations and circumstances that give rise to discrimination.

154. Various government policies and legislation enacted to promote the best interests of the child have not been implemented effectively due to insufficient resources and infrastructure.

## **WAY FORWARD**

155. To ensure implementation of enacted legislation and government policies designed to give effect to the provisions of CRC, the monitoring and enforcement system needs to be strengthened.

156. The environment in which CRC is implemented is negatively affected by the high level of poverty currently experienced by many Zambian households. The State party wishes to inform the Committee that a national poverty reduction strategy is in place, and that strategies to intensify interventions in the social sector are prioritized.

## **IV. CIVIL RIGHTS AND FREEDOMS**

157. The State party wishes to inform the Committee that it has measures in place to ensure that the civil rights and freedoms of children set forth in the Convention are recognized by law and implemented in practice.

## NAME AND NATIONALITY

158. Every child in Zambia has a right to a name and it is, generally, believed that a child should be named within the first week of birth. A child may be named after an ancestor, who is living or dead, and may be given both traditional and non-traditional names. The majority of Zambian traditional names have a meaning and are used to enhance the child's identity.

159. In recognition of a child's right to a name, birth registration procedures require a child's forename and surname. Although it is possible to register a child before a name is given, the parents or guardian have two years in which to register the child's name.

160. The law permits natural or adoptive parents or a legal guardian to change a child's name. An adopted child may change his or her name to that of the adoptive parents or may retain his or her original name after the adoption order. These procedures are done in accordance with the English Rules of the Supreme Court (White Book, 1998).<sup>11</sup>

161. The Births and Deaths Registration Act, chapter 51, provides for compulsory registration of all children born in Zambia, without distinction of origin or descent. This registration is free if done within the prescribed period of one month after the birth of the child. Registration after a period of more than 12 months after the child's birth requires the written approval of the Registrar-General.

162. The law requires that the birth of a child must first be registered in the district where the child is born before the information is entered into the central register. Zambia has 72 registration districts, which are identical to the current administrative districts identified in the Provincial and District Boundaries Act, chapter 286. All District Secretaries can act as Registrars of Births and Deaths in their respective districts.

163. Children born in camps or settlements as refugees or asylum-seekers are registered and issued birth certificates immediately after birth.

164. Parents have the primary responsibility for informing the appropriate authorities of the birth of a child. If the mother or father fails to carry out this responsibility, the duty is placed upon a prescribed list of others. The father of a child born out of wedlock is under no obligation to give notice of the birth of the child.

165. It is an offence to fail to give notice of a child's birth. This is punishable by a penalty of 200 penalty units and/or one month's imprisonment with or without hard labour. However, a person will be excused if the circumstances of the case made it unreasonable or impracticable to give such notice.

166. Failure to give notice will also be excused in situations where the parents, guardians or other responsible persons could not reasonably be expected to have sufficient knowledge of this obligation because of educational status, general knowledge and understanding of laws, or the social environment in which he or she resides. This provision acknowledges that in rural areas of the country facilities are not readily available and, also, the level of education of the people is relatively low, to such an extent that they may not be aware of their obligations.

167. Efforts have been made to improve record-keeping in rural areas. Mothers and traditional birth attendants are being taught about the importance of recording the birth of children. In addition, the registration process has been quasi-decentralized to make it possible to notify authorities about births and later forward the information to the national registration office.

168. Measures to ensure that non-registration of births is avoided include requirements of birth registration information upon first attendance in the under-5 clinic and when registering a child for first grade in school. Additionally, it is hoped that hospitals will insist on verifying when a birth notice is given.

169. The number of people filing a notice of birth has substantially increased in recent years. However, the level of registration nationwide is still unacceptably low. This matter has not received the amount of attention required. The Department of National Registration does not have a public relations unit to sensitize and mobilize public opinion regarding the need for birth registration. Also, there is a need to be more innovative in the way that registration of births is done, especially to improve access by rural areas to the registration process.

170. Logistical problems faced by the Department of National Registration need to be addressed. There is a critical shortage of human resources, particularly, trained officers, to assist informants with the registration of births. The need to computerize the Registry has been recognized as a priority so that vital information is not lost. Presently, it is very difficult to get information from some of the registers.

171. Very detailed information is required on a birth registry form. This information can be used to assist a child who does not know his or her parents or natal family to identify them.

#### **THE CHILD'S RIGHT TO ACQUIRE A NATIONALITY**

172. The Constitution confers citizenship upon every 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. This applies to all children whether born in or out of wedlock.

173. A child born in Zambia before 1 April 1986, and whose father was an established resident at the time of the child's birth, is a citizen from the time of birth until he or she attains 21 years of age. Thereafter, he or she is required to apply to the Citizenship Board for confirmation of citizenship. It may be possible for a child of one Zambian parent and one foreign parent to have dual nationality during the age of minority, depending on the laws of the country of the non-Zambian parent.

174. A child who has association with Zambia through descent, residence or other means, but is not of full age, can become a citizen through registration on the satisfaction of the Citizenship Board, provided he or she meets all legal requirements. Upon application of the parent or guardian, the Citizenship Board can register a child as a citizen.

175. There are no specific provisions dealing with the nationality of children who would otherwise be stateless. The President of the Republic of Zambia has the power to cause persons who are not entitled to or not eligible for citizenship to be registered as citizens. This is a possible action that could enable a stateless child to obtain citizenship status.

### **PRESERVATION OF IDENTITY**

176. Preservation of a child's identity is guaranteed under the Births and Deaths Registration Act, chapter 51. The State party wishes to inform the Committee that it is not aware of the practice of illegal deprivation of some or all of the elements of a child's identity.

### **FREEDOM OF EXPRESSION**

177. Protection of the right to express one's views and obtain information is provided by article 20 of the Constitution, as cited in paragraph 183 below. Freedom of expression is not a right specific to children but is extended to all groups of society, including children. The right to freedom of expression is justiciable.

178. Article 20, paragraph 3 of the Constitution imposes conditions on an individual's right to freedom of expression. The public interest takes precedence over individual rights when it involves public safety, public order, morality and health, as cited in paragraph 183 below.

### **ACCESS TO APPROPRIATE INFORMATION**

179. The State party wishes to report that article 20 of the Constitution provides protection for the right to information.

180. Children enjoy the right to accessing information through educative and entertaining programmes on both radio and television. There are also books written and sold in various outlets specifically for children. Regrettably, general reading of magazines, newspapers and other literature are not widespread in rural areas due to a shortage of materials. In many government schools, 10 pupils share one book because of inadequate public investment in the education sector.

181. Nevertheless, the mass media plays an important role in ensuring that children are not denied the right to appropriate information. Reading materials and radio programmes are translated into vernacular languages to meet the various needs of different children.

182. As a measure to improve freedom of expression, the Information and Broadcasting Policy of 1996 has made provisions for private sector investment and participation in the mass media industry. During the period under review, there are nine privately owned radio stations and three television stations providing information. These include Radio Phoenix, Multichoice Television Network, Casat Television Technologies, Trinity Broadcasting Corporation, Radio Ichengelo and Radio Christian Voice.

### **FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION**

183. Article 19 of the Constitution provides protection for the right to freedom of conscience, inclusive of freedom of thought and religion, freedom to change one's religion or belief, either alone or in community with others and both in public and in private to manifest and propagate one's religion or belief in worship teaching, practice and observance. Article 19, paragraph 2, protects a minor from receiving religious instructions that may be in conflict with his or her personal beliefs and choice of worship.

184. There are implied limitations to a child's rights if certain religious beliefs are perceived to be dangerous to the well-being of the child. Parents or guardians are responsible for guiding minors in matters of religion, and are expected to act in a manner consistent with the interest of public safety and order.

### **FREEDOM OF ASSOCIATION AND PEACEFUL ASSEMBLY**

185. Article 21 (1) of the Constitution guarantees the right to freedom of association and assembly. Although the Constitution does not specifically refer to children, it can be presumed that this protection includes children because it refers to all persons in Zambia.

186. The Family Life Educational Programme, which is being introduced in some schools, teaches children to be assertive and encourages free expression between themselves, their teachers and parents. Also, children are taught about their human rights in schools. Through the introduction of CRC Advocacy Programme, a large number of children are now aware of their rights and are forming associations such as the Radio Four Fan Club, Boy and Girl Scouts, Boy and Girl Guides, and Boy and Girls Brigades.

### **PROTECTION OF PRIVACY**

187. The State party wishes to inform the Committee that measures exist to protect a person's privacy. Article 17 of the Constitution provides to everyone protection of privacy and prohibits any arbitrary or unlawful interference with a person's family, home or correspondence, as well as any attack on his or her honour and reputation.

188. However, search and seizure may be carried out with a person's consent when it is in the interest of national defence, public safety, public order, public morality, public health, and public interests (see chapter I for additional discussion on respect for privacy of children placed in institutions for treatment, care or protection).

### **TORTURE AND DEGRADING TREATMENT**

189. Article 15 of the Constitution prohibits a person from being subjected to torture, inhuman or degrading punishment, or other like treatment. Freedom from torture and degrading treatment is absolute and cannot in any circumstances, such as war, be tolerated. However, torture has not been criminalized under Zambian law.

190. A child can obtain or seek redress from the courts of law in the form of damages from the State if torture is committed. Procedures for seeking redress involve petitioning the High Court of Zambia or lodging a complaint with the Permanent Human Rights Commission or the Police Complaints Authority. In addition, a person can bring a complaint before the Human Rights Committee under the Optional Protocol of the International Covenant on Civil and Political Rights, and before the Committee against Torture under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

### **Awareness-raising campaigns and other interventions**

191. The Permanent Human Rights Commission has been conducting awareness-raising campaigns, and is developing educative and training activities.

192. Civil society has been actively involved in awareness-raising campaigns for the prevention of torture. Human rights law is now included in the curricula for law enforcement agents and schoolchildren. The State party wishes to inform the Committee that it has submitted its initial report on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and has since disseminated it countrywide in an effort to raise awareness about the prohibition of torture.

193. The Inquiries Act, chapter 41, provides for the creation of commissions and the appointment of commissioners to inquire into and report on matters referred to them. A Commission of Inquiry was established to investigate allegations of torture against detainees accused of the 1997 attempted coup. The Commission of Inquiry has since completed its investigations and submitted its report to the Government for action.

194. There have been no reports on child victims of torture.

195. The Permanent Human Rights Commission serves as an independent monitor for cases of torture and degrading acts in Zambia.

### **ACHIEVEMENTS**

196. The following achievements were made during the reporting period:

(a) NGOs are supplementing the Government's efforts to sensitize women in rural areas to the importance of registering their children's birth;

(b) Increasingly, children are becoming aware of their rights and how to seek redress when their rights are infringed upon;

(c) An enabling environment exists that encourages freedom of association and assembly. Discerning children are taking advantage of this to form associations;

(d) There is increased awareness of the right to privacy. As a result, information advocating this right is readily available;

(e) The overall social environment accepts the right to information, which is manifested by the growth in private mass media organizations;

(f) Establishment of the Permanent Human Rights Commission;

(g) Introduction of a bill in Parliament that obliges lawyers to accept two cases per year on a pro bono basis as a condition for issuance of a practising licence. This will assist detainees and children in trouble with the justice system, who cannot afford litigation fees, to obtain legal representation.

## **CONSTRAINTS AND CHALLENGES**

197. The following constraints and challenges were identified:

(a) The registration process for births and deaths is cumbersome and highly centralized;

(b) Registration is done for a fee and many parents cannot afford to register their children;

(c) Sensitization and awareness-raising programmes conducted by NGOs are urban-biased, thus limiting information available to rural children;

(d) Parents continue to unduly influence their children in the choice of religion;

(e) There is a degree of interference in the registration of youth associations because of attitudes that elders should be responsible for governance issues;

(f) The right to privacy is difficult to protect because it contradicts prevailing cultural beliefs;

(g) In publicizing children's rights through the media, some journalists are violating those rights by publicizing private information about children whose rights have been violated. This is particularly disturbing in cases of sexual abuse.

## **WAY FORWARD**

198. The need to decentralize some of the Registry's functions and to computerize its processes has been recognized as a priority.

199. Advocacy and information, communication and education activities on CRC require intensification to bring about awareness and compliance.

200. Efforts will be made to domesticate the international human rights instruments to which Zambia is a party.



## V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

### PARENTAL GUIDANCE

201. The State party wishes to state that it recognizes and respects the family as the basic social unit that provides for the care, protection and welfare of a child.
202. The nuclear and extended family systems are the two main family structures in Zambian society. The nuclear family is more pronounced in urban areas and the extended family tends to be stronger in rural areas.
203. There are many types of household structures in Zambia, ranging from single-headed households to multi-generational families living together in the same household and sharing meals together. The common feature in the vast majority of these households is that they are adult-headed.
204. As HIV/AIDS epidemic matures into its second decade in Zambia, child-headed households are rapidly emerging. In these households, the oldest child assumes responsibility for the care of younger siblings after the death of parents. Children in such households are at economic and social risks because they lack adult supervision, guidance and support.
205. Respect for the responsibilities, rights and duties of parents, the extended family and community is deeply rooted in Zambian tradition, culture and family values. There exists an inherent and strong sense of responsibility towards the children and their welfare.
206. The State party acknowledges that the provision of formal family counselling services and parental education programmes is a new phenomenon in Zambia. Historically and traditionally, these functions were the exclusive domain of the elderly people in the community, e.g. the matriarchs and patriarchs.
207. It is the opinion of the State party that the elders in society possess compelling knowledge and information about child development and the evolving capacities of the child and, therefore, are in a good position to teach others.
208. The Government provides parental counselling services through the Ministry of Health; the Ministry of Sports, Youth and Child Development; the Ministry of Community Development and Social Services; and the Victim Support Unit under the Zambia Police Service.
209. Churches and NGOs, such as Family Life Movement, Family Health Trust, Planned Parenthood Association of Zambia (PPAZ), Young Men's Christian Association (YMCA), Young Women's Christian Association (YWCA), Community Youth Concern and Kara Counselling provide similar services. In addition, counselling services are conducted through traditional institutions and ceremonies.

## **PARENTAL RESPONSIBILITIES**

210. The Constitution, the Penal Code, the Adoption Act, and the Affiliation and Maintenance of Children Act address issues of parental responsibilities regarding care, protection and welfare of children.

211. The principle of investing in a child's welfare is very strong in Zambia. Under customary law, parents are obliged to provide for their children. Traditional norms and values emphasize the importance of looking after children in a manner compatible with community standards.

212. The capacity of parents to provide for their children has been negatively affected by poverty and an adverse economic environment. To offset this situation, the Government has introduced PWAS. In 1999, 59,423 (25,201 males and 34,222 females) received some form of assistance from the scheme (MCDSS, 1999).

213. The Zambian Education Capacity Building Programme (ZECAB) is an initiative to help parents educate their children. So far more than 19,243 vulnerable children have benefited from ZECAB scholarships.

214. Community-based initiatives to assist family incomes, such as microfinance, food for work and relief programmes, are encouraged (Department of Social Welfare, 1999).

## **SEPARATION FROM PARENTS**

215. The Juveniles Act and the Adoption Act outline the conditions under which children can be separated from their parents. Separation is undertaken only in extreme circumstances, and is done when it becomes evident that it is not in the best interests of the child to continue living with his or her parents or guardian, for instance, in cases of neglect or abuse as defined by the Juveniles Act and the Adoption Act.

216. When separation is necessary, custodial care by a member of the extended family is assumed to be the preferable option. Institutionalization of children, even in temporary shelters, is a last resort.

217. Children are given an opportunity to participate in any proceedings involving legal separation from parents, and to make their views known (see chapters III and IV).

218. The Juveniles Act, the Affiliation and Maintenance of Children Act and the Probation of Offenders Act support the right of children who are separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis. In 1999, home contacts were made for 240 juveniles in Nakambala and Katombora correctional institutions. Through these contacts, correctional officers counselled parents and guardians on how to help their children or dependants to prepare for eventual reintegration into the community (ibid.).

## **FAMILY REUNIFICATION**

219. The Constitution guarantees the right to freedom of movement. Therefore, the right of a person to enter or leave the country is protected.

220. There are no restrictions on family movements by either parents or children. Once a travel document is issued to a citizen, that citizen is free to go and come as he or she chooses. Consequently, situations of family reunification will inevitably be dealt with in a positive, humane and expeditious manner.

221. When both parents of a child reside in different countries, there are no legal barriers that interfere with a child's right to maintain personal relations and direct contact with both parents on a regular basis. There are no exceptions in this regard.

## **ILLICIT TRANSFER AND NON-RETURN**

222. The State party wishes to advise the Committee that the practice of illicit transfer and non-return of children abroad has not occurred to any national, to date. Although there are no known cases, remedies exist in the criminal domain and would extend to extradition agreements where these exist between States.

## **RECOVERY OF MAINTENANCE FOR THE CHILD**

223. The Affiliation and Maintenance of Children Act, the Penal Code and the Juveniles Act compel a parent or parents to maintain children to the best of their ability. For parents living abroad, jurisdictional issues would influence the determination of parental obligations.

## **CHILDREN DEPRIVED OF THEIR FAMILY ENVIRONMENT**

224. The extended family has provided a traditional safety net, and has cushioned children from suffering the full impact of social, economic or physical deprivation of their environment, particularly when biological parents are absent or unavailable to provide care and support. HIV/AIDS has weakened the extended family system as the burden of care for survivors, including orphans, has become intolerable for many families (UNICEF, 2000). This has resulted in increased numbers of orphans and vulnerable children. Projections by the Ministry of Health/Central Board of Health indicate that there are more than 600,000 AIDS orphans in the country. The number of vulnerable children, because of HIV/AIDS, is unknown (MOH, 2000).

225. Foster-care services are regulated in accordance with the provisions of the Juveniles Act, chapter 53. The Department of Social Welfare supervises and monitors the situation of children placed in alternative care. Before alternative care is considered, social inquiries are made concerning the child's cultural, social and religious background. The law specifically requires that this be taken into account and that children be placed in a setting as close to their normal living environment as possible.

## **ADOPTION**

226. Although the Adoption Act was enacted in 1958, before Zambia attained independence, to some extent, it conforms to the requirements of CRC.

227. The child under this Act is referred to as an infant, and is defined as “a person who has not yet attained the age of 21 years, but does not include a person who is or has been married”.

### **The adoption process and measures to ensure the best interests of the child**

228. Adoption of a child is effected by the High Court or, if the applicant so requests, by any Subordinate Court of the First Class within the jurisdiction in which either the applicant or the infant resides at the date of application for the adoption order. In practice the Subordinate Court of the First Class handles most adoption cases.

229. An adoption may be made jointly by the two spouses, or by the mother or father of the child either alone or jointly with the spouse. Only spouses can jointly adopt a child. The following are some of the conditions for adoption:

(a) In the case of a joint application, one of the applicants must have attained the age of 25 years and must be at least 21 years older than the child;

(b) Where the applicant is a relative of the child, the applicant must have attained the age of 21 years unless the applicant is the mother or father of the child;

(c) A single male cannot adopt a female child unless special circumstances can be demonstrated to justify the order.

230. An adoption order cannot be made unless the applicant and the child reside in Zambia, and the child has been continuously in the care of and possession of the applicant at least three consecutive months before the date of the adoption order. The applicant is required, during the same period, to notify the Commissioner of Juvenile Welfare of his or her intention to adopt the child.

231. The law requires the consent of parents, guardian or anyone legally responsible for the child before an adoption can be effected. The wishes of the child must be given consideration if he or she is of an age to understand the adoption order.

232. The court has the power to dispense with any necessary consent where the parent or guardian or anyone else having legal responsibility for the child has abandoned or neglected or persistently ill-treated the child.

233. In making the adoption order, the court must be satisfied that the parents or guardian understand and consent to the adoption. In other words, that the parents or guardian understand that the adoption order is irrevocable; that the adoption is in the best interests of the child, and that the child’s opinion has been given due consideration.

234. All documents filed in an adoption petition are confidential and kept secret by the court, and every application is heard and determined in camera. The child may retain his or her previous name after the adoption order. As a general rule, one may not advertise that he or she is wishing to put a child up for adoption or to adopt a child.

235. The Commissioner for Juvenile Welfare supervises the adoption process where a child has not attained the age of 16 years.

236. The law regulates payments made during the adoption process. It is an offence for a parent or guardian or adopter or any person involved in the adoption process to receive any payment that is not sanctioned by the Adoption Act or the court.

### **Inter-country adoption**

237. The Adoption Act provides guidelines for inter-country adoption. The Commissioner of Juvenile Welfare oversees the process and ensures that the best interests of the child are maintained.

### **PERIODIC REVIEW OF PLACEMENTS**

238. Procedures exist for periodic review of cases involving children placed in care. The reviews help analyse the general circumstances of the child, foster parents and the community with the view of reintegrating the child into mainstream society.

239. Circumstances taken into account when deciding placements of children include abandonment, neglect, abuse, including sexual abuse, death of parents or guardians and juvenile delinquency.

### **ABUSE AND NEGLECT, INCLUDING PHYSICAL AND PSYCHOLOGICAL RECOVERY AND SOCIAL REINTEGRATION**

240. The Constitution prohibits abuse and neglect of children, and the Juveniles Act, the Adoption Act and the Penal Code contain provisions to protect children from abuse.

241. Although Zambian legislation prohibits all forms of physical and mental violence, corporal punishment still exists in the Statutes. Several judicial decisions have been categorical in stating that corporal punishment is inhuman and degrading and should be outlawed (see the section on judicial decisions discussed in chapter I above).

242. Children can lodge complaints directly or through a representative in cases involving mental or physical violence. In addition, procedures exist to protect children from any form of violence, abuse or neglect.

243. The YWCA of Zambia is the lead organization in awareness-raising campaigns to prevent situations of violence, abuse or neglect and to strengthen the system for child protection. YWCA is also providing psychosocial counselling to victims of child abuse and educating

families on children's rights. Churches and non-governmental organizations are providing awareness campaigns to communities in local languages on the provisions of CRC and child abuse matters.

### **ACHIEVEMENTS**

244. During the reporting period, the following achievements were made:

- (a) Establishment of the Victim Support Unit;
- (b) Formation of the Zambia Counselling Council and the professionalization of counselling in Zambia;
- (c) Ongoing review of the Juveniles Act;
- (d) Continued observance of the Year of the Family;
- (e) Some refugee children were reunited with their families.

### **CONSTRAINTS AND CHALLENGES**

245. The following constraints and challenges were noted:

- (a) A lack of disaggregated data by gender;
- (b) A lack of specific provision for Zambian family law to provide guidelines on implementation of article 19;
- (c) Inadequate monitoring of children in foster care;
- (d) HIV/AIDS has increased the vulnerability of children owing to the premature loss of parental guidance;
- (e) Little is known about adoption by the general public;
- (f) Most Zambians assume guardianship without officially adopting or fostering the child;
- (g) There is no monitoring mechanism to ascertain the extent of abuse and neglect.

### **WAY FORWARD**

246. To move forward, the Government will prioritize the capacity-building of human resources in departments implementing CRC so that officers can vigorously monitor the implementation of policies and legislation incorporating CRC provisions.

247. Community awareness programmes should be embarked upon to educate the public on the advantages of adoption. This would help to provide protection to orphans who are being informally fostered in the extended family and give them rights in accordance with articles 5 and 18, paragraphs 1 and 2, of CRC.

## **VI. BASIC HEALTH AND WELFARE**

### **DISABLED CHILDREN**

248. The State party wishes to confirm that it recognizes that a mentally or physically disabled child should enjoy a full and decent life in conditions that ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

#### **Measures taken to promote the welfare of disabled children**

249. The National Child Policy identifies special education as a right for children with disabilities and introduces guidelines for raising public awareness of the educational and other specialized services available to the disabled child. It is the policy of the State party to help families improve their capacity to identify developmental disabilities in their children at an early stage for the purpose of finding an early remedy.

250. Disability cuts across all sectors. The Ministry of Community Development and Social Services and the Ministry of Education are entrusted with the responsibility for addressing the problems of people living with physical handicaps, hearing and/or speech impediments and blindness. The Ministry of Education has policy guidelines for educating children with disabilities and a special unit to train teachers of disabled children. The Ministry of Community Development and Social Services has a specific department that provides services to people with disabilities and intervenes on their behalf.

#### **Measures taken to protect the rights of disabled children**

251. Section 19 (1) of the Persons with Disabilities Act, chapter 65, prohibits discrimination, which is defined as follows:

- (a) Treating a person with a disability less favourably than a person without a disability;
- (b) Discrimination between two or more persons living with a disability;
- (c) Requiring a person with a disability to comply with a requirement or condition, thereby favouring persons without disabilities;
- (d) Not providing different services or conditions required for that disability.

252. A learning institution is guilty of discriminating against a person with a disability if it:
- (a) Refuses or fails to accept or admit such a person on the grounds of his or her disability;
  - (b) Lays down terms and conditions under which it is prepared to admit such a person because of his or her disability;
  - (c) Denies or limits any person with a disability access to any benefits provided by that institution;
  - (d) Expels a student or pupil on the grounds of his or her disability;
  - (e) Discriminates against a person in any other way on the grounds of that person's disability.

#### **Measures taken to ensure effective evaluation of the situation of disabled children**

253. From a false sense of shame or embarrassment, many parents do not divulge information about their disabled children with the result that their children's problems remain unknown and untreated. This situation is compounded by the absence of a system of identification of disabilities.

254. Reliable statistical information on disabilities in Zambia is not readily available. The major causes of disabilities in the country and its distribution have not been formally documented. A national campaign to reach children with disabilities was conducted during the period 1980-1985. Analysis of 7,382 registered children with disabilities indicated that 41 per cent of the children were physically disabled, 25 per cent were visually impaired, about 23 per cent had hearing or speech impediments and 11 per cent had multiple learning/mental disabilities (MOH, 2000).

255. According to the National Campaign on Disabilities Report there are approximately 40,000 children with disabilities, most of whom are not registered with the appropriate authorities for assistance and support. The rate of disability in rural areas is significantly higher than in urban areas, with the highest rate being in the more remote areas of Luapula, north western and western provinces. The majority of children with disabilities are not attending ordinary schools or receiving special education, treatment or other rehabilitative support (ibid.).

#### **Measures taken to ensure adequate training**

256. Depending on the extent of the disability, education and special training facilities are available for children with disabilities.

257. Specialized training is available for professional service providers who work with disabled children, such as teachers, psychiatric nurses and clinical officers, tuberculosis/leprosy clinical officers, physiotherapists and neurologists.



258. Integration of disabled children with those without disabilities depends on the type of disability. Special schools and other training facilities are available on a limited basis for children unable to integrate owing to the severity of their disability.
259. The State party has created the Zambia Agency for Persons with Disabilities under the Persons with Disabilities Act. The Agency plans, promotes and administers services for persons with disabilities.
260. The core funding of the Agency is directly appropriated from Parliament, making more secure the sustaining of the Agency's operations. In addition, the Agency may receive donations and collect fees for the services provided.
261. Zambia's Education Policy recognizes the rights of children with special educational needs based on the principle that every individual has an equal right to education. The guiding principle is that children with special educational needs should be integrated as far as possible into programmes that are offered in ordinary classrooms.
262. Children with special educational needs are classified as exceptional. The exceptional child or individual is defined as "one who differs from others in mental, physical or social characteristics to such an extent that, for the full development of inherent potential, he or she needs a modification of school, college or university provision and practice, or special educational services".
263. It is estimated that 10 to 15 per cent of children in Zambia are exceptional and require active intervention and specialized services. These figures do not include maladjusted or emotionally disturbed children or children who are exceptionally gifted or talented (MOE, 2000).
264. In 1995, there were 31 special education institutions, of which 28 at primary, 1 at secondary and 2 at tertiary level. There were also 80 special education units in regular schools, of which 51 were at primary and 29 at secondary school levels. During the period 1996-1997, there were 25 government-supported residential schools with enrolments of 1,708 in 1996 and 2,436 in 1997 (MOE, 1999).
265. The Ministry of Science and Technology in liaison with its implementing agency, the Department of Technical Education and Vocational Training now DTVET and the Finnish Association on Mental Retardation (FAMR), have been offering since 1994 a number of programmes to children with intellectual disabilities (mental retardation).
266. The Social Safety Net and Public Welfare Assistance Schemes under the Department of Social Welfare in the Ministry of Community Development and Social Welfare provide financial assistance to disabled children whose parents cannot afford to pay for school requirements.
267. A very small percentage of physically or mentally impaired children are catered for in schools. The reasons for this situation are that most ordinary schools do not have the facilities to teach disabled children and most teachers are not trained to adapt teaching methods to meet their needs. Another reason is that systems for identifying and contacting children with special needs are not well developed.

268. The management and supervision of special education is overcentralized and understaffed. There are no special education inspectors in other parts of the country, making it virtually impossible to monitor and supervise programmes in special schools and units.

## **HEALTH AND HEALTH SERVICES**

269. The State party wishes to report that children under the age of 5 years make up 20 per cent of the Zambian population, and of this number 92 per cent have access to medical assistance and primary health-care services.

270. According to the Living Conditions Monitoring Report, 1998 published in Zambia, the proportion of the population aged between 1 and 14 years was estimated at 45 per cent, with adolescents aged between 10 and 19 years comprising 26 per cent of the total population. Of this number, about 65 per cent had access to medical assistance and health care.

271. There are disparities in the provision of medical assistance and health-care services between urban and rural areas. Children in urban areas have access to better medical services than their counterparts in rural areas. Ninety-nine per cent of urban households live within 5 km of a health facility compared to only 50 per cent of rural households.

### **The health dimensions of child survival and development**

272. According to the 1992 and 1996 Zambia Demographic and Health Surveys (ZDHS), child survival in Zambia is less probable today than it was 10 years ago. In the period between 1987 and 1991, nearly one in every five children died before their fifth birthday. Child mortality rate (ages 1 to 4 years) was as high as that of infant mortality.

273. Studies show that children living in rural areas have a higher risk of dying before the age of five than urban children, and marked differences exist in mortality rates between provinces.

274. Differences in early childhood mortality are due to the mother's age, her educational level and her access to health care, i.e. antenatal care, assisted delivery by a skilled birth attendant and post-natal care.

275. The first one month of life is a high-risk period for newborn babies. During infancy, acute respiratory infections, diarrhoeal diseases and malaria account for almost one third of deaths.

276. HIV/AIDS is a significant cause of morbidity. Perinatal transmission accounts for 75 per cent of all paediatric AIDS cases.

277. Major causes of morbidity and mortality for children between ages 1 and 5 years are malnutrition, diarrhoeal diseases, malaria and acute respiratory infections (MOH, 2000).

**Measures taken to diminish infant and child mortality**

278. The National Programme of Action for Children (NPA) has the following health-related goals:

- (a) To reduce maternal mortality rate by 50 per cent by 2000, from the current level of 202 per 100,000 live births;
- (b) To reduce the total fertility rate from 6.5 to 5.4 by 2000 and to 4.0 by 2015;
- (c) To reduce moderate and severe malnutrition by 25 per cent by 2000;
- (d) To reduce infant mortality rate from 108 per 1,000 live births to 65 and the under-5 mortality rate from 192 per 1,000 live births to 100 by 2000;
- (e) To provide access to clean water and sanitary means of excreta disposal for 50 per cent of rural households and 100 per cent of urban households by 2000.

279. The mid-decade (1995-2000) goals of NPA for maternal and child health had the following goals:

- (a) To reduce mortality from acute respiratory infections by 50 per cent in children under five by 2000;
- (b) To reduce diarrhoeal deaths of children under five from 10 to 8 per cent by 1995;
- (c) To reduce diarrhoeal deaths in hospitals by 80 per cent from 2,000 to 400 per year by 1995;
- (d) To reduce annual diarrhoeal episodes in children under five from 5.1 to 4.0 episodes per child by 1995;
- (e) To reduce measles cases by 90 per cent compared with pre-immunization era level;
- (f) To achieve an overall coverage of 85 per cent for BCG, DPT 3, OPV 3 and measles immunizations by 1995;
- (g) To reduce morbidity and mortality from malaria by 50 per cent by 2000 through improved environmental care;
- (h) To achieve exclusive breastfeeding for the first four months by 90 per cent of mothers by 2000;
- (i) To eradicate polio by 2000 and to eliminate neonatal tetanus by 1995;

(j) To achieve tetanus toxoid 5 vaccination coverage of 50 per cent among pregnant women by 1996;

(k) To make family planning services available, accessible and affordable to at least 30 per cent of all adults in need of such services by 2000.

### **Promoting child health**

280. Child health is one of the State party's priority areas in an essential health package. Other priorities include nutrition, maternal health and child health, part of which has a component on child health and HIV/AIDS.

281. Since child health is a broad categorization, health-care interventions are effected by different players and at different stages of the child's development.

282. The State party has adopted the goal of universal child immunization as a promotive health intervention. All children below 5 years should receive antigens against six immunizable diseases, namely tuberculosis, diphtheria, whooping cough, tetanus, poliomyelitis and measles.

283. The unborn child can be protected against neonatal tetanus if the mother is vaccinated with two doses of tetanus toxoid. All pregnant women who attend antenatal clinics are provided with tetanus toxoid vaccines free of charge.

284. It is a requirement that all children should receive all doses of the antigens before their first birthday. Immunization is integrated with other primary health-care services, such as growth monitoring and promotion, health education with counselling, micronutrient supplementation and family planning.

285. The general target group for immunizations comprise children aged up to 24 months, pregnant women, women of childbearing age, 15 to 45-year-olds and schoolchildren in Grades 1 and 7 (MOH, 2000).

286. Zambia has been implementing National Immunization Days (NID) as one of the four recommended strategies to achieve the goal of polio eradication. In 1996, NID aimed at eradicating polio by the year 2000 and the Integrated Management of Childhood Illnesses were adopted. Polio immunization coverage for both 1996 and 1997 NID rounds was above 85 per cent (ibid.).

287. Diarrhoeal diseases have been and still are a major cause of child morbidity and mortality in Zambia. The policy, strategies and targets of the National Control of Diarrhoeal Diseases were outlined in the State party's Fourth National Development Plan for the period 1989-1993 and remain the guidelines for combating diarrhoeal diseases.

288. The strategy for reducing morbidity and mortality associated with diarrhoea among children under 5 years entails improving the supply and availability of Oral Rehydration Salts (ORS) through health facilities, private practitioners, pharmacies and community health workers, as well as training health workers in the management of diarrhoeal diseases in children. Mothers

and caretakers are educated on how to provide oral rehydration therapy and continued nourishment to children with diarrhoeal disease. As part of the Control of Diarrhoeal Diseases national policy, two sachets of ORS are given to every child with diarrhoea who shows no signs of dehydration. Each health institution maintains an oral rehydration therapy corner where mothers can rehydrate sick children under the supervision of health-care providers.

289. In order to reduce the current high levels of infant and child morbidity and mortality, the Government, in conjunction with collaborating partners, is addressing the situation through the Integrated Management of Childhood Illnesses programmes. This involves screening, counselling and treatment of illnesses at first contact with the health practitioner. Health-care providers at health-care centres are being trained to improve case management of sick under-5 children in a holistic manner (MOH, 2000).

290. The provision and use of safe drinking water, improved sanitation, food security and health education towards better personal and environmental hygiene will make infectious water-related diseases, especially diarrhoeal diseases, less frequent.

291. In order to ensure preparedness for epidemics and effective control of disease outbreaks, the Ministry of Health is training health-care providers and senior health managers at central, provincial and district levels to prepare and equip them for effective, prompt response to epidemics.

292. The nutrition status of many children in Zambia is poor. Protein-energy malnutrition is a widespread public health problem. Children under 5 years, pregnant women and lactating mothers are most at risk. The major causes are inadequate dietary intake, frequent illnesses and inadequate care.

293. Half of the children below 5 years are malnourished and stunted, and 25 per cent are underweight; 12 per cent of babies are born with low birth weight and 4 per cent of children under five are wasted (low weight for height), resulting in recent illnesses or severe food shortage.

294. Malnutrition in infancy is strongly associated with early introduction (that is in a baby less than 6 months old) of non-breast foods, deficiencies in weaning diet and constant illnesses, especially diarrhoea. It is estimated that 69 per cent of all children, 47 per cent of pregnant women and 38 per cent of women who are not pregnant are deficient in iron. Malnutrition accounts for 20 to 30 per cent of hospital admissions and 40 per cent of all deaths in children under 14 years.

295. Another major health problem is micronutrient deficiencies that affect mainly children and women. The deficiencies include iron deficiency anaemia, iodine deficiency disorders and vitamin A deficiency. Sixty-six per cent of children are vitamin A deficient.

296. Iodine deficiency also appears to affect a large proportion of the population as manifested by goitre. A survey conducted among primary schoolchildren in 1993 revealed that the total goitre rate was 31.6 per cent and median urine iodine was 6.0 ug/dl. The goitre rate ranged between 9.0 to 82 per cent in the districts covered (MOH, 2000).

297. The State party wishes to report that Zambia has adopted the Declaration on the Elimination of Micronutrient Malnutrition through Food Fortification and Micronutrient Supplementation and Food Diversification at the World Summit for Children.

298. The goals set out are the elimination of vitamin A deficiency and iodine deficiency and the reduction of iron deficiency among women by one third.

### **Breastfeeding**

299. Exclusive breastfeeding is defined as the feeding of a baby only breast milk and nothing else, unless it is medically advised. Zambia has adopted the Innocenti Declaration on the Protection, Promotion and Support of Breastfeeding. Breastfeeding at the workplace is being encouraged. The government policy on breastfeeding emphasizes exclusive breastfeeding for the first six months. Thereafter, it should be continued in addition to nutritious complementary foods well into the second year of life or beyond. About 26 per cent of children under 4 months of age are exclusively breastfed.

### **Adolescent sexuality and reproductive health**

300. Adolescent sexuality and reproductive health have been a high priority for the State party since the adoption of the Programme of Action of the International Conference on Population and Development.

301. Precocious, unprotected and premarital sexual activities, early pregnancies, illegally induced abortions, sexually transmitted diseases and HIV infections are some of the results of the new patterns of adolescent sexual behaviour. Parents, teachers and health providers tend to underestimate the level of adolescent sexual activity although reports from various surveys show otherwise.

302. According to the 1996 ZDHS data, adolescents in Zambia begin childbearing early. About half the teenage population already had a child or were pregnant with their first child. Among the 550 Grade 4 to 12 pupils surveyed in Lusaka and Southern and Western Provinces of Zambia, 40 per cent already had a regular sex partner and 30 per cent of the boys and 15 per cent of the girls had used a condom at some point in time. However, the regular use of a condom was very low (CARE, 1998). In a separate study in Lusaka, 20 per cent of girls below age 19 were infected with HIV (MOH/CBOH, 1999).

303. In spite of the early age at which the first sexual intercourse takes place and early pregnancies, Zambia lacks adequate support for adolescent mothers. Young people lack adequate and appropriate information about sexuality and sexual relationships. Often they are excluded from the mainstream service delivery system, which places them at a greater risk of reproductive health problems.

304. Unsafe abortions are a major cause of maternal mortality and morbidity, but hospital records under-report the magnitude of the problem because most deaths occur outside health-care facilities. In 1993, in Lusaka's University Teaching Hospital, about 80 per cent of women who were admitted with complications of illegally induced abortions were younger than 19 years.

305. Since 1972, it has been possible to have a legal abortion in Zambia under the Termination of Pregnancy Act, chapter 304. However, safe abortion is not easily available to most women, especially teenage girls. The procedure for legal abortion requires that a woman or girl obtain the signatures of three doctors, including a psychiatrist. Most people, including some health-care providers, are not aware of the provisions of this Act.

306. A draft National Adolescent/Youth Health Policy has been formulated and will address issues of sexually transmitted diseases and unwanted pregnancies. The policy was developed by the Ministry of Health/Central Board of Health in collaboration with stakeholders in the adolescent health field.

307. Counselling of young adolescents under 16 years of age is a priority. The female population and young adults, as priority groups, are given information, education and communication messages regarding prevention and protection against unwanted pregnancies, sexually transmitted diseases and HIV infection.

308. The Ministry of Education is in the process of strengthening school health services to provide appropriate information and education regarding sexuality. The information provided will include prevention of unwanted pregnancies, sexually transmitted diseases and HIV infection.

309. The Planned Parenthood Association of Zambia traditionally offers family planning and reproductive health services and counselling to adults. Interventions are now also aimed at providing reproductive and sexual health care to adolescents. The core programmes include community-based distribution, income-generation activities for young people, peer education projects and developing a national peer education curriculum for adolescents, and special clinic services for young people.

310. CARE International supports reproductive health services, including family planning, in some Ministry of Health clinics. CARE implements adolescent reproductive health services in Lusaka, Ndola and Livingstone, offering young people friendly services, peer counselling services and setting up youth corners within established health facilities.

311. A pilot project is currently operational in three health centres (Kalingalinga, Chawama and Chilenje) in Lusaka where sexual and reproductive health services are offered to youths by youths. The programme began in 1994, following the formation of the Adolescent Health Task Force under the Ministry of Health, Child and Reproductive Health Unit. The National Programme for Youth and Youth Friendly Services Committee was elaborated in collaboration with the Lusaka Urban District Council, youths, selected government ministries and NGOs, and with the support of UNICEF.

312. The youth-to-youth services conducted by peer educators cover topics such as sexually transmitted diseases, HIV/AIDS, pregnancy, fertility, gender, drugs, child rights, family life, education, negotiation skills and basic counselling skills, child-to-parent communication, condoms and referrals, and address problems faced by adolescents.

313. The lessons learnt from youth-to-youth interventions are as follows: young people feel more comfortable discussing sex with peers; participatory methods help youths to discover more about their reproductive needs; youth will attend clinics if they feel that they are welcome; youth act as a bridge between other youth and health-care facilities; with support and full involvement in the youth programmes, adolescents can develop confidence to adopt safer sex behaviours, e.g. delaying or postponing sex.

### **Traditional practices prejudicial to the health of children**

314. Male circumcisions in unhygienic conditions are a problem, particularly in rural areas. Forced marriages and early pregnancies are common and are the major cause of school dropouts for girls. Early pregnancy in a girl who is not physically and mentally ready results in a number of complications, such as vesicle vaginal fistula (VVF).

### **Water sanitation and environmental pollution**

315. There is considerable social and economic inequality in access to safe drinking water. In 1998, about 90 per cent of urban households and 35 per cent of the rural population had access to safe drinking water. About one-half of all water sources are not functioning owing to breakdowns and a lack of maintenance, neglect or drying up, as occurred in the 1992 drought areas (MOH, 2000).

316. Although 90 per cent of urban dwellers have access to piped water, widespread water shortages negate the advantages of piped water. The existing situation is one of inadequate water production combined with high losses, inadequate distribution system and intermittent operations. Moreover, urban areas are expanding, without corresponding expansion of water supply systems. This results in a smaller proportion of urban dwellers being covered by the water reticulation system.

317. In an attempt to give sanitation a higher profile, a Working Group on Sanitation was set up in February 1997. The working group produced a report in December 1997, entitled "National Environmental Sanitation Strategy for Rural and Peri-urban Areas". The report serves as a useful guideline in developing strategies aimed at improving sanitation in the country.

### **International cooperation**

318. Some of the activities and programmes cited above are supported financially through bilateral and international cooperation. For instance, family planning activities are supported by UNFPA and DFID. WHO and UNICEF are supporting child health activities and programmes. UNICEF and WHO are supporting maternal health activities and programmes. Nutrition activities and programmes are supported by UNICEF, WHO, USAID and JICA.



### **Social security and childcare services**

319. The State party wishes to report that in 1993 it introduced Health Care Cost Scheme (HCCS) and Education Cost Scheme (ECS) to protect vulnerable groups, including children, exempted by the Government from paying health-care services at designated health institutions. So far, 15,589 (7,073 males and 8,516 females) have benefited from HCCS while 7,718 children (4,132 males and 3,586 females), benefited from ECS. HCCS and ECS have been fused into the mainstream PWAS.

320. The Department of Social Welfare is cooperating with the Central Board of Health and UNICEF to pilot a new scheme of exemptions from health-care charges for youths between 6 and 16 years old under the Youth Health Care Cost Scheme (YHCCS).

321. The new scheme will provide orphans and vulnerable children with exemptions from paying health centre and hospital charges (MCDSS, 1999).

322. YHCCS will be administered through the redesigned PWAS, which is empowering communities to allocate welfare resources within their locality. In partnership with grass-root organizations, NGOs and churches, as well as other government departments, notably health, communities are being sensitized to welfare issues. The redesigned PWAS is working in nine districts and YHCCS will be piloted over a period of two years in six of these districts.

### **Standard of living**

323. One of the basic causes of malnutrition is poverty. Although the Government has shown commitment to alleviating food and nutrition problems in the country by establishing the National Food Nutrition Council in 1967, until recently, it has not developed a food and nutrition policy to guide nutrition programme formulation and implementation. Zambia is currently taking initiatives to develop a food and nutrition policy and to formulate the Zambia Plan of Action on Nutrition (ZPAN).

### **ACHIEVEMENTS**

324. Since 1991, the health system in Zambia has undergone a number of reforms with the view to providing equal access to quality health services for all communities. Below are some of the achievements.

- (a) Increased coverage of childhood immunizations;
- (b) Zambia has successfully implemented sugar fortification with vitamin A and consumption of iodized salt. This fulfils Statutory Instrument No. 155 of 1998 on Sugar Fortification and Statutory Instrument No. 97 of 1999 on Salt Iodination;
- (c) Adoption of the Declaration on the Elimination of Micronutrient Malnutrition through Food Fortification and Micronutrient Supplementation and Food Diversification;

(d) Basic health-care packages have been defined for each level of health-care delivery;

(e) Review of the mid-decade goals towards implementation of NPA indicate that half of the goals related to child survival and development have been met.

### **CONSTRAINTS AND CHALLENGES**

325. The State party acknowledges the following constraints and challenges:

(a) Service delivery has suffered owing to concentration on streamlining, management and administrative functions;

(b) Health facilities are not able to provide quality services as defined in the basic package owing to a severe shortage of human and financial resources, drugs, equipment and other supplies. Physical infrastructure and equipment for primary health care and referral health services have deteriorated over the years;

(c) The incidence and intensity of poverty has increased over a short period, resulting in levels of chronic malnutrition rising dramatically;

(d) The problem of feminization of poverty has become very critical;

(e) The extended family system is threatened with extinction;

(f) The HIV/AIDS epidemic is so severe that it has reached a crisis in terms of the number of young children who are being orphaned and in need of assistance;

(g) Eliminating discriminatory attitudes to disabled children is a challenging task because some communities look upon a child's disability as a curse or a punishment from God or believe it is a result of parents having engaged in black magic practices.

### **WAY FORWARD**

326. In order to decongest clinics in urban areas, adequate resources should be provided to build new clinics.

327. Efforts should be made to improve the conditions of service for health personnel to curtail the brain drain of Zambian doctors and nurses to developed countries.

328. The Ministry of Youth, Sports and Child Development, which currently coordinates NGO youth programmes, should play a more active role in providing services to youth.

## VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

### EDUCATION, VOCATIONAL TRAINING AND GUIDANCE

329. The State party wishes to report that there is no legislation that guarantees the right to education. However, under the Constitution, article 110 (e) of the Directive Principles of State Policy, the executive, the legislature and the judiciary in the development and implementation of national policies and the enactment of new laws are required to ensure the provision of equal and adequate educational opportunities in all fields and at all levels.

330. The National Policy on Education of 1996 contains general principles of education, which are:

- (a) Liberalization - the right of private organizations, individuals, religious bodies, NGOs and local communities to establish and control their own learning institutions;
- (b) Decentralization - the Ministry shall devolve power from the centre to local levels to allow various stakeholders to share in decision-making and to take responsibility for education at the local level;
- (c) Equality and equity - where access, participation and achievement in education are impeded by gender or physical, mental, economic or social factors, the Government will seek to eliminate the sources of educational disadvantage in order to achieve equality and equity.
- (d) Quality - the Government shall promote a high standard of education and learning for all;
- (d) Partnerships - the Government shall create conditions that allow human, financial and other resources, under the control of private and voluntary agencies, communities and religious bodies, to be channelled without hindrance into the education sector.
- (e) Accountability - the Government shall ensure that effective systems are in place at the national, provincial, district and institutional levels for evaluating the effectiveness and efficiency with which resources are used.

#### **Structure of the education system**

331. Currently, Zambia's formal education system has a 7-5-4 structure, with seven years of primary education (four years of lower and three years of upper primary), five years of secondary (two years of junior and three years of senior secondary) and four years of university education to first degree level.

332. The goal of the education system in Zambia is that every child should have access to nine years of good quality education, meaning that the new system will have a 9-3-4 structure, which comprises nine years of basic education, three years of high school education and four years of university education to first-degree level.

333. The system now in place provides more school places at the primary than at the secondary level. This means that not all children who enter school are able to proceed to the next level automatically. Pupils, therefore, must pass the selection examinations at grade 7, 9 and 12 to proceed to the next level. The existing system is, therefore, pyramidal.

334. Apart from the University of Zambia, there are other tertiary education institutions to which students can go to train in various specialized fields. Examples of these are nursing schools, teacher training colleges, colleges of agriculture and various vocational training institutes (MOE, 2000).

## **PRE-SCHOOL EDUCATION**

335. Pre-school education is offered to children between the ages of 3 and 6 years. The National Child Policy, which has reiterated the Government's commitment to the provision of basic education for all children, has also recognized the need to develop early childhood education.

336. According to the existing Ministry of Education policy, the provision and funding of early childhood and pre-school education are the responsibility of councils, local communities, NGOs, private individuals and families.

337. However, the Ministry of Education does provide professional services to pre-school education through training teachers, developing curriculum materials and monitoring standards.

338. The Zambia Pre-school Association was formed in 1972 and is an NGO whose main function is to look into issues of early childhood education. The local councils which maintain a register of all early childhood education centres register all pre-schools. The local councils have a legal obligation to monitor pre-schools under their jurisdiction.

339. Early childhood education in organized pre-schools is accessible mainly to children in urban centres. Because pre-school education is controlled by private providers who charge fees, children whose parents cannot afford to pay are denied the opportunity to receive this important service. There are still very few pre-school centres in rural areas.

340. The 1998 statistics from the Ministry of Education show that at the national level, 8.4 per cent of children enrolled in Grade 1 had received pre-school education. Of the rural children enrolled in Grade 1 in 1998, only 2.7 per cent had received some form of pre-school education, whereas 23.6 per cent of Grade 1 pupils in urban areas had received pre-school education.

341. In order to improve access to early childhood education, the National Child Policy endeavours to work with communities towards widening access to early childhood education and development. Under NPA, the major goal is to expand Early Childhood Care Education and Development activities for the under-7 age group with emphasis on community-based interventions.

342. Supporting strategies were formulated to achieve the following objectives by 2000:

(a) To increase gross enrolment ratio of children in pre-schools from 2 to 25 per cent with special emphasis on the urban poor and children with disabilities;

(b) To increase the proportion of trained pre-school care providers from 20 to 60 per cent and to ensure that each group has at least one trained teacher;

(c) To equip every pre-school care provider with a teaching kit, learning materials and play materials for each centre with 80 per cent of pre-schools taking the lead in integrating child services in the community;

(d) To promote health education, nutrition, sanitation knowledge, values and skills of 80 per cent of the families in which pre-schools are active;

(e) To sensitize at least 20 per cent of families to the learning needs of the under-4 age group.

343. These strategies have not been fully achieved and are mainly in the process of being implemented.

#### **BASIC EDUCATION**

344. The Government is committed to providing universal education for all children, as indicated in the following policy goals of the Ministry of Education:

(a) Every child should have seven years of basic education by the year 2005;

(b) Every child should have access to nine years of good quality basic education by the year 2015;

(c) The improvement of school infrastructure so that children learn in an environment conducive to their education;

(d) The upgrading of all primary schools to full basic school status by the year 2015;

(e) The provision of adequate financial resources for basic education;

(f) Ensuring that pupils acquire essential literacy, numeracy and life and communication skills;

(g) Enabling pupils to develop practical skills in one or more relevant areas;

(h) Supplying schools with adequate teaching and learning materials;

- (i) Increasing the number of trained teachers to meet the rising demand for basic education;
- (j) Eliminating gender imbalances in school enrolment and retention;
- (k) Active involvement of communities in the provision of education.

345. The policy of the Ministry of Education states that, “As basic education becomes more universal, the Grade 7 composite examination will become less important and eventually will be abolished.” The introduction of the Basic Education Subsector Education Programme (BESSIP) is an initial step towards phasing out Grade 7 examinations as BESSIP covers up to Grade 9. BESSIP will result in comprehensive reforms in the basic education sector.

### **Objectives of BESSIP**

346. The main objectives of BESSIP are to improve equity, access and equality of basic education mainly through enhanced provision of education materials, curriculum reforms, improved pedagogy, attention to health and nutrition, as well as strengthening pre- and in-service training of teachers. The overall goal of basic education is to provide every pupil with a solid intellectual, practical and moral foundation that will serve as a basis for a fulfilling life.

347. The Government administers most schools in Zambia, though there are schools which are managed by various church groups, NGOs and the private sector. Not-for-profit, non-governmental schools receive a government grant. In 1996, there were 4,058 government and grant-aided primary and basic schools. Both grant-aided and private schools are provided for under the Education Act, chapter 134, of the Laws of Zambia.

348. The State party wishes to report that the number of basic schools increased by 27 per cent from 374 to 473 between 1990 and 1996. The number of secondary schools increased by 40 per cent from 140 to 206 in the same period. The number of private schools increased by 208 per cent from 49 to 151 in the same period (MOE, 1996).

### **Community and parental involvement**

349. Parents play an important role in the management of schools. Every school has a Parents-Teachers’ Association (PTA), as provided for under the Education Act of 1966. Parents participate in decision-making to improve the quality of education provided. PTAs have statutory powers to impose levies on pupils in order to improve school facilities.

### **Access and participation**

350. Since independence, Zambia has made significant advances in the education sector. During the first decade of independence, the education sector expanded rapidly as Zambia tried to develop its human resource to speed up the Zambianization process. Efforts were made to improve access to education for all Zambians. However, these ambitious plans were derailed with the economic downturn experienced by the country from the mid-1970s.

**Table 2**  
**Primary school enrolment by gender, 1990-1996**

Year	Boys	Girls	Total	% of girls
1990	761 651	699 896	1 461 511	47.9
1991	778 768	716 049	1 494 817	47.9
1992	770 666	707 007	1 477 673	47.8
1993	803 077	735 902	1 538 979	47.8
1994	800 858	742 078	1 542 936	48.1
1995	803 387	726 951	1 530 338	47.5
1996	791 489	717 767	1 509 256	47.6

Source: Kelly, 1999.

351. Table 2 indicates an increase in total primary school enrolments between 1990 and 1994, but a decline thereafter.

**Table 3**  
**Primary school net enrolment and number of out-of-school children, 1996**

	Boys	Girls	Total
Total primary school enrolment	791 489	717 767	1 509 256
Enrolment of 7 to 13-year-olds	676 279	648 755	1 325 034
7 to 13-year-olds population	799 080	778 725	1 577 805
Net enrolment ratio	84.6	83.3	84.0
Number of incorrect age in school	155 210	69 012	184 222
Number of 7 to 13-year-olds children not in schools	122 801	129 970	252 771

Source: Kelly, 1999.

352. According to Table 3, by 1996 only 84 per cent of all eligible school-age children were enrolled in schools. The right to education of the remaining 16 per cent had not been realized.

**Table 4**  
**Primary gross enrolment ratios by province, 1996-1999**

Province	1996			1997			1998			1999		
	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total
Central	116	111	114	112	108	110	113	110	112	108	107	107
Copperbelt	106	113	109	105	115	110	106	117	111	104	114	109
Eastern	83	69	76	84	71	77	83	72	77	77	69	73
Luapula	108	99	103	108	98	103	110	101	105	108	100	104
Lusaka	96	90	93	93	91	92	89	89	89	83	84	84
North western	100	98	99	101	101	101	102	102	102	100	99	99
Northern	116	98	107	116	98	108	116	99	108	111	94	103
Southern	106	102	104	114	109	112	110	106	108	105	104	105
Western	91	94	93	96	99	97	94	98	96	92	98	94
Grand total	103	98	100	104	100	102	104	101	102	101	99	100

Source: Ministry of Education, 1999, and Central Statistical Office.

353. The net enrolment ratios in Table 4 show that none of the nine provinces have achieved universal primary education even though four provinces are close to achieving this goal.

#### **Girl child education**

354. The National Policy on Education gives high priority to the education of girls. Currently, girls' enrolment in Grade 1 is almost equal to that of boys. From Grade 4, progression to subsequent grades by girls declines. More girls drop out of school than boys. These gender disproportions are more glaring in rural areas (MOE, 1998).

355. The Ministry of Education is trying hard to improve girls' participation and retention in schools through the Programme for the Advancement of Girls' Education (PAGE). PAGE aims to increase girls' enrolments, progression and quality of education by:

- (a) Creating girl-friendly schools;
- (b) Sensitizing the community and parents;
- (c) Creating single-sex classes for girls;
- (d) Involving parents and guardians in the education of their daughters;
- (e) Improving teaching methodology.



### **School facilities**

356. Many schools have inadequate facilities, such as classrooms, desks, books, staff houses, access to clean water and toilets. In order to attain the goal of creating 1.2 million school places by 2015, the Ministry of Education and its cooperating partners have embarked on a programme of school rehabilitation, which has resulted in the construction of more than 2,300 classrooms, 1,100 teachers' houses, 2,100 pit latrines, 100 water-borne (pour flush) toilets and rehabilitation of more than 2,100 classrooms and 1,200 teachers' houses (ibid.).

### **Books and desks**

357. Between 1991 and 1998, a total of 14.5 million textbooks, supplementary readers and teachers' guides for Grades 1 to 7 were procured and distributed. In spite of these efforts, very few schools have achieved a book-pupil ratio of 1:2.

358. The syllabuses in core subjects were revised, produced and distributed, and teachers were oriented to their use. Over 68,000 library books were procured and distributed.

359. Between 1990 and 1998, more than 160,000 desks were procured and distributed to schools. However, in many schools there is still a shortage of desks and many pupils still sit on the floor or use some improvised materials.

### **Performance achievements and competencies**

360. One of the objectives of BESSIP is to improve pupil achievement. In 1999, the Ministry of Education undertook a National Assessment for Grade-5 Pupils. The assessment evaluated the actual learning acquisition in English and numeracy, revealing that the levels of learning achievement in Grade 5 were very low. The mean percentage scores in English and mathematics were 31.8 and 32.8, respectively (MOE, 1999).

361. In order to improve pupil achievement, the Ministry will introduce competency testing which will be carried out at school level. In-service programmes are offered in resource centres to improve teachers' skills. There is a resource centre in every district in addition to 14 provincial resource centres. Efforts are being made to increase the output of teachers from teacher training colleges. This is being done through the one-year-in-college and one-year-in-the-field training programme for primary schoolteachers.

### **Measures for free and compulsory basic education**

362. There are no user charges for basic education, but parents or guardians have to pay for uniforms, transport, and PTA fees. Education is not compulsory, but once a child is enrolled in a school, it is the duty of every parent or guardian to ensure the child's regular attendance, which is stated in the Compulsory Attendance Regulation Statutory Instrument No. 118 of 1970. The regulations provide for the appointment of public officers as attendance officers, whose duty is to ensure compliance with the regulations. However, these officers have not been appointed yet to enforce the regulations. As a result, many children who drop out of school are not followed up.

## **HIGH SCHOOL EDUCATION (SECONDARY EDUCATION)**

363. The goal of high school education is to enable every pupil to become a well-educated person, who is useful to society and who is adequately prepared for the furtherance of his or her education or for becoming a self-supporting worker.

364. Secondary education is offered in the following types of institutions:

- (a) Upper basic schools - Grades 8 to 9;
- (b) Junior secondary schools - Grades 8 to 9;
- (c) Secondary schools - Grades 8 to 12;
- (d) High school - Grades 10 to 12.

365. Admission to high schools is based on performance in terminal examinations in the Junior Secondary School Leaving Examination taken at the end of Grade 9. Progression rates from Grades 9 to 10 have over the years fluctuated between 19 and 21 per cent.

366. The Ministry of Education is committed to decentralization. Each high school and secondary school will have an education board, which will be composed of members of the community. The boards, which have already been formed in the Copperbelt Province, charge user fees, in line with the policy of cost-sharing.

### **Access and participation**

367. In 1990, there were 140 government and grant-aided secondary schools with a total enrolment of 68,379. In 1996, these schools increased by 40 per cent or to 206 and 228, respectively, in 1999. There were 142,069 pupils enrolled in secondary schools in 1999. In order to increase access to high school education, schools have responded by introducing academic production units for Grades 8 to 12. Pupils pay fees for using school facilities in the afternoon.

### **Girl child education**

368. The major development in this area was the change in policy of the Ministry of Education in 1997. Schoolgirls who become pregnant will be allowed back to school after they have had their babies.

369. However, the drop-out rate for girls at this level is higher than that for boys. Even with the policy of allowing pregnant girls back into school, not all those who find themselves in this predicament make use of the opportunity.

### **School facilities**

370. Facilities in secondary schools are deteriorating owing to inadequate financial support. The level of deterioration varies from school to school. This variation can be attributed to the level of contribution by PTA.

### **Performance**

371. At high school level, pupil performance shows variations among schools and subject areas. The passing rates in many schools are low.

### **Measures to introduce free secondary education**

372. There are no measures currently in place for free education at this level.

### **LITERACY RATES**

373. The National Literacy Campaign was launched in 1990. Women accounted for 73 per cent of enrolments.

**Table 5**

#### **Literacy rates by sex and age group**

	1990	1999
Male	77%	82%
Female	57%	63%
Total	67%	74%

Literacy - "Proportion of population who are 15 years and older, who are able, with understanding, to both read and write a short, simple statement on their everyday life."

Source: Our Children at End Decade, UNICEF/CSO, 2000.

### **NON-FORMAL EDUCATION**

374. Statistics show that approximately 252,771 children aged 7-13 years are out of school. This is due to limited places in the formal education system. Economic hardships and long walking distances also serve as a barrier and lead to increases in the number of children who drop out of school (MOE, 1996).

375. The Ministry of Education recognizes the right to education of out-of-school children and is making efforts to meet their learning needs through non-formal education strategies in conjunction with the local communities and international cooperating partners.

## COMMUNITY SCHOOLS

376. Community schools provide basic education for out-of-school youth. Children targeted are between ages 9 and 16 years, and have dropped out, been pushed out or never been to school. These schools give preference to the most disadvantaged children. Table 6 shows that since 1996 there has been a rapid increase in community schools which cater for a substantial number of disadvantaged children.

377. The following are general characteristics of community schools:

- (a) They are non-profit-making institutions that are inexpensive enough to allow disadvantaged children to have access to education;
- (b) Uniforms are not a school requirement;
- (c) Teachers are mostly untrained volunteers from the community;
- (d) They tend to be managed by community committees;
- (e) They have small classes with up to a maximum of 35 pupils;
- (f) Funding is obtained from a variety of sources;
- (g) The Ministry of Education prepares syllabuses and materials tailored to the needs of the pupils;
- (h) The Ministry of Education provides learning materials and educational advisors, and pays an agreed number of trained teachers.

**Table 6**

### Enrolment and staffing in community schools, 1996-1999

	1996	1997	1998	1999
Number of schools	55	123	220	373
Enrolment (boys)	3 051	8 002	13 479	23 323
Enrolment (girls)	3 548	11 048	15 125	24 044
Total enrolment	6 599	19 050	28 604	47 276
Orphans as percentage of total enrolment	3%	19.5%	17.9%	20%
Number of female teachers	67	-	278	361
Number of male teachers	64	-	290	438
Total number of teachers	131	-	568	799

Source: Ministry of Education, 2000.

## **INTERACTIVE RADIO INSTRUCTION**

378. Another form of non-formal education designed to meet the learning needs of out-of-school youth is interactive radio instruction consisting of interactive lessons in which an audio component delivered by an “audio-teacher” through a radio or audiocassette, and classroom activities carried out by learners are carefully integrated.

379. The Education Broadcasting Services of the Ministry of Education has developed a 100-lesson programme, which is being piloted in selected areas of Lusaka and Chongwe. The broadcasts were launched on 24th July 2000 and they offer Grade-1 pupils integrated mathematics and English. The pilot project was intended to run for a period of 20 weeks and is designed to ascertain if children can achieve competency in literacy, numeracy and life skills. This project is community-based. The communities have responded favourably by mobilizing learners and identifying learning centres and mentors. The mentors work as facilitators whose role is to guide the children and help them follow the radio broadcasts. The community will support the mentors.

380. When fully operational, the interactive radio programmes will reach an estimated 800,000 out-of-school children throughout the country. These radio programmes have been made possible through financial assistance from NORAD.

## **ALTERNATIVE EDUCATION FOR CHILDREN EXCLUDED FROM SCHOOL**

381. The Ministry of Education established the Department of Continuing Education to provide basic and secondary education to children who were bypassed by the formal school system or who left school too early, without having acquired the necessary communication and life skills for a fulfilling and productive life. It offers programmes, in the following areas:

- (a) Distance education for secondary school students provided by the National Correspondence College in Luanshya;
- (b) Open secondary schools for Grade-7 school leavers;
- (c) Evening classes;
- (d) Supervised study groups;
- (e) Continuing education at schools that offer academic education and skills training.

Over the past years, the number of pupils in these programmes has decreased from 32,000 to 11,000 owing to financial constraints faced by the Department.

## **SPECIAL EDUCATION**

382. Special education is a type of education which is specially designed and adapted to suit individual specific needs of children, youths and adults with special educational needs (see chapter VI).

383. Although there have always been exceptional children, adequate attention has not always been paid to their special needs. Before 1971, education for pupils with special needs was in the hands of the missionaries, church organizations and voluntary organizations and many children with disabilities were entirely excluded from any publicly supported programmes of education.

384. In 1971, education for exceptional pupils became the responsibility of the Ministry of Education and since then a Special Education Inspectorate has been established within the Ministry.

385. Since taking over the responsibility for special education, the Ministry of Education has established the Zambia Institute of Special Education (ZAMISE), formerly called the Lusaka College For Teachers of the Handicapped (LUCOTEHA). ZAMISE trains specialized teachers in visual, intellectual, hearing and physical impairments. The figures are shown in Table 7 below.

**Table 7**

**ZAMISE graduates in special education**

Years	Qualifications	Number
1971-2000	Certificate in Special Education	2 320
1993-2000	Diploma in Special Education	160
	Grand total:	2 480

Source: Ministry of Education, 199? (sic.).

386. In 1996, the University of Zambia introduced the Bachelor of Arts degree in Education with Special Education, which was followed by the Bachelor of Education degree in Special Education in 1997. In the two programmes, a number of teachers have been trained.

**Table 8**

**University of Zambia graduates in special education**

Years	Qualifications	Number
1996-1998	B.A. Ed. with Special Education	20
1997-2000	B.A. Ed. with Special Education	15
	B.A. in Special Education	19

Source: Ministry of Education, 1998.

387. These tables show that the number of qualified personnel is not adequate to meet the learning needs of pupils with special educational needs.

### **Policy provisions on special education**

388. Zambia's education policy (1996) supports the principle that every individual has an equal right to education. This means that every individual, regardless of personal circumstances or capacity, has the right of access to and participation in the education system. Ensuring full equality of access, participation and benefit for all pupils necessitates interventions at all levels of service delivery to support children with special educational needs.

389. The education policy is in line with the Salamanca Statement which advocates for integration and participation of pupils with special needs in the regular school system. Where integration occurs, there still remains the practical question of the extent to which ordinary schools can provide facilities, such as adapted accommodation, specialized teachers, equipment and multidisciplinary professional support suitable for each child's special needs.

390. In 1996, there were 20 residential special schools with a total enrolment of 2,000 pupils, while integrated units had an enrolment of 20,000 pupils. Current statistics show that the enrolment figures have risen to 3,000 pupils in special schools and to 25,000 pupils in integrated units (MOE, 1998).

### **Access and participation**

391. Access to schooling for exceptional children has increased from 0.1 per cent in 1990 to 1 per cent in 1995, which is a rather minor and almost insignificant increase. This situation is attributed to many factors, such as lack of sufficient educational provisions for the profoundly impaired pupils and inadequate systems for identifying, screening, assessing and placing pupils with special educational needs (ibid.).

### **School facilities**

392. Pupils with special educational needs use the same facilities as those used by regular pupils. Most of the teaching and learning materials and equipment are imported.

### **Performance (learning achievements)**

393. Levels of learning achievements among pupils with special needs are measured through their performance in national examinations. In this way, their individual specific learning needs are not taken into account.

394. Performance indicators of pupils with special educational needs can be better monitored by the use of the individualized education programme (IEPs). IEP needs to be developed and implemented for every pupil between ages 3 and 21 with special educational needs. The Special Education Unit is working towards developing IEP in inclusive schools in Kalulushi District in the Copperbelt Province.

### **Alternative education for disabled children excluded from school**

395. Children with special needs who have physical impairments that prevent them from functioning normally in some way, or who suffer from various diseases that prevent them from benefiting from ordinary schools, are catered for in hospitals by special education units, homes for the disabled, rehabilitation centres and Cheshire homes for the disabled.

### **CURRICULUM REFORMS**

396. The Ministry of Education's foremost priority for lower and middle basic education is to ensure that pupils master essential literacy and numeracy skills, while for upper basic education it is the acquisition of high levels of competence in communication, mathematical skills and problem solving ability that is fostered through scientific and practical subjects. Accordingly, the curriculum emphasizes language, mathematics, science and practical subjects.

397. The education policy also states that, officially, English will be used as the language of instruction, but that the language used for initial literacy learning in Grades 1-4 should be one that is familiar to the child to promote meaningful learning.

#### **Current basic education curriculum**

398. Currently, the following subjects are taught in lower and middle basic schools: mathematics, Zambian languages, social studies, environmental science, home economics, English, art and design, industrial arts, spiritual and moral education, music and physical education.

399. There has been criticism that the curriculum is overloaded and that the time allocated to each subject is not adequate. Also, it is argued that too much emphasis is put on factual information and rote learning in order for the learner to pass examinations. The language of instruction used even for initial literacy is foreign to the learner. Overall, the current curriculum does not respond to the changing needs of society.

#### **Proposed basic education curriculum**

400. Curriculum reform is one of the BESSIP components. The reforms aim at developing a basic curriculum which is relevant, effective and in line with other current education reforms.

401. The Curriculum Development Centre has so far developed a draft basic school curriculum framework document, which is yet to be piloted. The curriculum framework covers lower and middle basic classes (Grades 1 to 7). The proposed basic education curriculum addresses issues raised in the National Policy on Education. The following are some of the features of the basic education curriculum:

- (a) Competency based curriculum;



- (b) Zambian languages will be the medium of instruction in Grades 1 to 4;
- (c) Life skills will be integrated across the curricula.

### **Human rights and gender issues**

402. Zambia is a State party to all the major international human rights instruments and the African Charter on Human and Peoples Rights (see chapter I). At the lower and middle basic school levels, human rights are taught in social studies, and in upper basic school, they are taught in civics. The teaching of human rights is fragmented in high school.

403. Gender issues are taken into account when developing learning and teaching materials, and the curriculum addresses gender in terms of sex segregation, gender roles and learning environment.

### **Reproductive health and HIV/AIDS**

404. HIV/AIDS is integrated into the reproductive health curriculum with a view to imparting knowledge; attitudes and skills that may help promote safer sexual behaviour are encouraged. The aim is to provide pupils with skills to promote positive social behaviour and attitudes, and to cope with negative social pressures.

405. A number of health education programmes have been introduced into school curricula, such as population, family life education and reproductive health, life skills, guidance and counselling, and anti-AIDS clubs.

### **Environmental education**

406. In response to the environmental problems facing the country, environmental issues have been integrated into various subjects to make pupils aware of the issue as well as to develop positive attitudes towards sustainable utilization of resources.

### **Localization of curriculum**

407. The Ministry of Education is tasked with the responsibility for developing a core curriculum to be followed by all schools. In keeping with the policy of decentralization, and in order to make learning more meaningful, schools are at liberty to teach certain topics and conduct activities particular to their locality.

408. Localization of curricula, to a large extent, involves the local community, parents and pupils, who decide on the kind of activities which will be added to the core curriculum and which will be beneficial to the learner.

### **Upper basic curriculum**

409. Efforts currently made to reform basic education are limited to lower and middle basic levels of education. This creates a gap in the provision of relevant education at upper basic level.

### **High school curriculum**

410. In response to the overloaded curriculum, the National Policy on Education states that the Ministry of Education will give priority to improving mathematics and science in high schools. To this end, it will ensure that, all schools, that offer general academic programmes will devote more of their resources and time to the teaching of these subjects.

411. The curriculum for Grades 10-12 will be diversified in a comprehensive and holistic way by developing several distinct programmes. Certain schools will become specialist schools for technology, practical areas, business and commercial studies, and the creative arts. The programmes offered by these schools will be unambiguously specialized in nature, but in all other regards these schools will be on par with those offering general academic programmes.

412. The high school syllabus was reviewed to integrate cross-cutting issues, such as HIV/AIDS, environmental issues, democracy and human rights, gender issues, and population and family life education. The review was limited to content only.

413. The Action for Improvement of English, Mathematics and Science Programme (AIEMS) is a Ministry of Education initiative to improve the teaching of these subjects at all levels. AIEMS has brought about improvements in these subject areas with regard to pupils' performance. Teachers have also improved in terms of their teaching approaches.

414. The Ministry of Education has not done much in the area of establishing schools with specialized curriculum. Most schools are still offering general academic programmes although each province has a specialized high school offering technical education.

### **VOCATIONAL EDUCATION**

415. The Ministry of Education established the Department of School Guidance Services, which is charged with the responsibility of planning, coordinating, monitoring and evaluating guidance and counselling programmes in primary as well as secondary schools in the country.

416. Through guidance each pupil is helped to understand, accept and utilize his or her abilities, interests and attitudinal patterns in relation to his or her aspirations.

417. The provision of information is critical to the task of guidance and helps individuals to exert more control over their lives.

418. The following are some of the constraints to providing vocational information at school level: many teachers have full-time teaching commitments and do not have adequate time and suitable offices for guidance work; there is a lack of basic training for most personnel in guidance; and many guidance teachers use inadequate and outdated information on training and job opportunities.

419. The Ministry of Education recognizes these problems and has put in place measures to address them.

### **Technical education and vocational training**

420. Currently, there are 23 training institutions under the Ministry of Science, Technology and Vocational Training and about 250 private colleges offering a wide range of vocational courses. However, not every school leaver can be offered a place in vocational training as the capacity is limited in comparison with the large number of school leavers in Grades 9 and 12.

### **HIGHER EDUCATION**

421. There are various types of higher education institutions in Zambia, designed to meet the needs of various sectors of the national economy. These institutions range from government-administered to semi-public and private institutions.

422. The demand for admission to higher institutions is very high and is far from being satisfied. More than 20,000 pupils complete secondary school each year, and of these, approximately 13,000 obtain a full certificate, making them eligible for admission into a tertiary educational programme. Higher institutions have an annual intake of about 5,000 students, some of whom are of mature age. The result is that only about a quarter of the applicants to higher institutions are admitted each year.

### **SPECIAL ISSUES IN EDUCATION**

423. It is estimated that about 252,771 children of primary-school-going age (7-13 years old) are not attending school. These growing numbers of children fall in the category of vulnerable, disadvantaged and orphaned children.

424. The Ministry of Education has initiated administrative measures to facilitate enrolment, participation and retention of disadvantaged children in basic education, especially girls. In addition to alternative schooling opportunities, children from poor families have the option not to wear uniforms; children whose parents fail to pay user fees cannot be excluded from school; and a multi-grade system is used to meet the learning needs of children in remote rural areas.

### **Bursary schemes**

425. The Ministry of Education is administering two schemes for children from extremely poor families. In 2000, three hundred bursaries were offered to children in basic education in 10 districts (MOE, 2000). The Basic Education Sub-Sector Bursary Scheme will be extended to other districts in the coming years.

426. The Zambia Education Capacity Building (ZECAB) project under the Ministry of Education offers bursaries to disadvantaged children in districts not covered by BESSIP. The table below shows the number of bursaries disbursed in 2000.

**Table 9****ZECAB bursaries by province, household and school, 2000**

Province	Number of bursaries	Children from female-headed households	Pupils in government schools	Pupils in community schools
Western	2 121	1 703	2 121	-
Southern	1 607	682	809	798
N\Western	1 912	1 083	1 912	-
Northern	3 039	2 109	2 293	746
Lusaka	2 283	1 636	686	1 597
Luapula	2 079	1 795	2 079	-
Eastern	3 032	2 058	1 537	1 495
Copperbelt	2 694	2 243	2 359	335
Central	476	390	476	-
Total	19 243	13 699	14 272	4 971

Source: Zambia Education Capacity Building Project.

**Teacher education and support**

427. The Ministry of Education is developing comprehensive training programmes for education managers, college lecturers, teachers, trainee teachers and head teachers. The programmes will produce materials on HIV/AIDS and other health-related issues, and will stress the role of education personnel in behaviour formation and behaviour change.

428. The Ministry of Education also supports and works closely with NGOs that promote HIV/AIDS prevention, such as Teachers Against HIV/AIDS Network.

429. The Ministry of Education in conjunction with the Ministry of Health, will design a research agenda on HIV/AIDS issues to form part of its policy and planning.

430. It is hoped that HIV/AIDS education programmes will be implemented through the relevant line departments and the BESSIP structures. The Deputy Chief Inspector of Schools is the focal point person for HIV/AIDS and is assisted by a full-time HIV/AIDS officer. HIV/AIDS focal point persons are expected to be appointed at the provincial, district and school levels.

**The impact of structural adjustment and the debt burden**

431. The structural adjustment programme has drastically reduced public funds for education. One of the requirements relating to structural adjustment is that the country should stay up to date on its debt servicing. Government policy is such that foreign debt servicing is given first priority in the allocation of resources.

432. In December 1998, the debt burden was US\$ 6.5 billion, or approximately US\$ 650 for every man, woman and child in a country where the per capita GNP is only slightly more than US\$ 250. Currently, the Government is spending US\$ 200 million annually on debt servicing, but this will increase to about US\$ 600 million owing to re-negotiations of debt in the past decade, which have resulted in the accumulation of arrears on bilateral debts (Ministry of Finance, 1999).

### **Safety, health and nutrition in schools**

433. The health and nutrition problems affecting schoolchildren are varied and significant. As a result of food insecurity and high levels of poverty in the country, malnutrition has increased among schoolchildren. The two common forms of malnutrition occurring in schoolchildren are protein-energy malnutrition and micronutrient deficiencies. Malnutrition levels are worsened by an increase in parasitic infestations due to unsafe drinking water and poor sanitation. These problems lead to poor enrolments, absenteeism and high repetition levels and drop-out rates (MOH, 2000).

434. To improve the health and nutrition of pupils and sanitation in schools the Ministry of Education is implementing the School Health and Nutrition Policy through BESSIP. The programme will be implemented by providing guidelines to departments within the Ministry and its collaborating partner, the Ministry of Health, on appropriate interventions. School health and nutrition focal point persons have been appointed at national, provincial and district levels. Also, safety issues, such as abuse and violence, especially with regard to girls, have been recognized as an area for future policies and action. However, raising awareness on CRC is seen as an important first step in addressing this concern.

### **School discipline**

435. The Education Act, chapter 134 permits the administration of corporal punishment as a method of punishment in schools, and provides regulations on how it should be administered. Part V of the Education Act (Primary and Secondary Schools) regulates the administration of corporal punishment. It provides that corporal punishment shall be administered only on reasonable grounds and only where it appears that other disciplinary measures would be inadequate or inappropriate given the circumstances of the case.

436. The head teacher or a teacher to whom the authority has been delegated may administer corporal punishment. A teacher of the same sex as the pupil administers the punishment, moderately and reasonably, on the palm of the hands or across the buttocks with a light cane or suitable strap. As a safeguard, all schools are required to keep a register of corporal punishment that records the date of the punishment, the name of the pupil punished, the nature of punishment and the grounds of the punishment. The person who administered the punishment and a witness if one was present should sign every entry. An authorized person inspecting the school may request the register of corporal punishment.

437. In the *John Banda v. The People* case (HPA/6/1998), the appellant pleaded guilty to and was convicted of malicious damage to property. The appellant was ordered to receive 10 strokes of a cane, in accordance with sections 24 (c) and 27 of the Penal Code, which provide for corporal punishment. He was also sentenced to a term of one month simple imprisonment suspended for 12 months.

438. Justice E. E. Chulu, deciding that sections 24 (c) and 27 of the Penal Code were unconstitutional, stated:

“Upon consideration of the law before me, I hasten to point out that the Republican Constitution, which is the written Constitution of Zambia, is the supreme law of the land, and consequently, all other laws derive their force from it, and are therefore subordinated to it. This being the legal position, it cannot, therefore, be doubted that unless the Constitution is specifically amended, any provision of an Act of Parliament that contravenes provisions of the Constitution are null and void. Article 15 of the Constitution is couched in very clear and unambiguous language, that no person shall be subjected to torture, or inhuman or degrading punishment or other like treatment. On the contrary, it cannot be doubted that the provisions of Section 24 (c) and 27 of the Penal Code, which permit the infliction, or imposition, of corporal punishment on offenders are in total contravention, and conflict with the above provision of article 15 of the Constitution.”

439. Permitting the administration of corporal punishment in schools means that adult violence against children has been common in schools. There have been reports of cases of excessive beating, which have sometimes ended in the death of a pupil. In instances where cases have been brought to the attention of the education authorities or to court, the due process of law has taken its course, although cases of children taking the education authorities to court are very rare.

440. Alternative forms of punishment administered in the education system include manual work.

441. Pupils do not take part in establishing or abolishing rules that affect their school life. Although the Education Act and Rules provide an elaborate complaints procedure, it is usually not followed, and pupils have no effective complaints procedure. Without effective complaint procedures, pupils become frustrated and resort to class boycotts and riots.

#### **Circumstances for exclusion from school**

442. A pupil can be excluded from school on any of the following grounds:

- (a) Participating in a riot against the school authorities;
- (b) Drug abuse, such as smoking *dagga* or cigarettes;
- (c) Drinking beer;

- (d) Impregnating a schoolgirl;
- (e) Wilful damage or destruction of school property;
- (f) Failure to pay fees, especially in private and grant-aided schools;
- (g) Fighting at school;
- (h) Stealing at school.

### **Refugee children**

443. The Ministry of Education recognizes the right of refugee children to education by placing them in schools.

### **Sports and cultural activities**

444. Sports activities, such as athletics, football and netball, and cultural activities such as dancing are recognized as part of the school curriculum. Every school is required to have sports or playgrounds. School sports competitions at district, provincial and national levels are held at regular intervals every year. Pupils also take part in international school competitions organized within the region.

### **ADMINISTRATION OF THE EDUCATION SYSTEM**

445. Administration is an area of concern and priority for the State party. It includes routine administration and the establishment of databases, as well as financial and information management systems, at the district, provincial and national levels. In this regard, the need to restructure and decentralize the services of the Ministry of Education was perceived as the key to achieving efficiency in performance.

446. Hence, the Education Boards, first established in the Copperbelt Province in 1996, were to be extended to the Northern, Lusaka, Southern and Western provinces in 2000 and to the rest of the provinces in 2001. The Ministry of Education headquarters will be reorganized to reflect the decentralized system in which it will have as its major functions the creation of policy and the analysis, supervision and monitoring of performance.

### **BUDGETARY PROVISIONS**

447. The current major categories of budgetary allocations are those targeting personal emoluments of staff, such as salaries, wages and allowances, recurrent departmental charges to meet routine expenses, such as paying for supplies and services, and capital projects, such as construction of new buildings.

448. There are regulations and guidelines on how public funds should be utilized for educational purposes. These guidelines refer to aspects such as school fees paid or charged, the use of funds for the maintenance of educational institutions, the use of locally raised funds and the use of grants.

449. Overall, there have been changes in national budget allocation to the education sector, as outlined in the table below extracted from the Government Yellow Book. The figures below reflect the amounts of money used for personal emoluments, recurrent departmental charges, grants and capital projects.

**Table 10**

**Allocation to the education sector (in thousand kwacha)**

Year	Emoluments	%	Recurrent	%	Grants	%	Capital	%	Total	%
1990	972 254	39.21	741 564	29.67	587 596	23.51	190 307	7.61	2 449 421	100
1995	45 611 474	61.21	13 613 040	18.27	13 018 342	17.47	2 273 85	3.05	74 516 712	100
2000	136 769 000	63.94	36 497 300	17.06	37 632 460	17.59	3 000 000	1.40	213 898 760	100

Source: Ministry of Finance and Economic Development, 2000.

450. It is evident that the education sector has suffered from severe under funding since the early 1980s. The average annual public spending per primary school pupil in 1996 was the equivalent of US\$ 29. There have been massive reductions in real public expenditure, while enrolments at all levels continue to grow. During the period 1987-1990, real public spending on the education sector fell to less than half of what it had been between 1981 and 1985. In 1994, the real spending per primary school pupil was less than 60 per cent of what it had been in 1985 (MOE, 1996).

451. Underfunding has led to the provision of insufficient resources for essential educational inputs, such as procurement of learning materials and furniture and the maintenance of physical facilities, which contributes to improving the teaching and learning environment.

452. The share of education in the total public budget declined over the 1980s from a peak level of around 16 per cent in 1984 to 9 per cent in 1992, to 11 per cent in 1993. From 1997 to 1999, the sector accounted for about 9 per cent of the total public budget. In 2000, the figure rose to 20 per cent, thereby achieving the 20/20 concept.

## **INTERNATIONAL COOPERATION IN EDUCATION PROVISION**

### **Major programmes: the BESSIP approach**

453. From 1998, the Ministry of Education has been coordinating all donor activities through BESSIP, and is currently implementing the first phase of the programme.

454. During Phase One (1999-2002), BESSIP focused on the provision of inputs to schools to enable more children to enrol and to improve learning achievements. The programme also strengthened the Ministry's capacity to monitor educational results, manage finances and



develop a quantitative framework for sector analysis. BESSIP supported decentralization of service delivery to District Education Boards and attempted to increase enrolment and improve learning results for the disadvantaged groups.

455. During Phase Two (2002-2005), BESSIP will concentrate on consolidating Phase One achievements, continue to provide key inputs, monitor enrolments and learning results, as well as ensure availability of sufficient places for all children ages 7-13 years, particularly in remote rural areas.

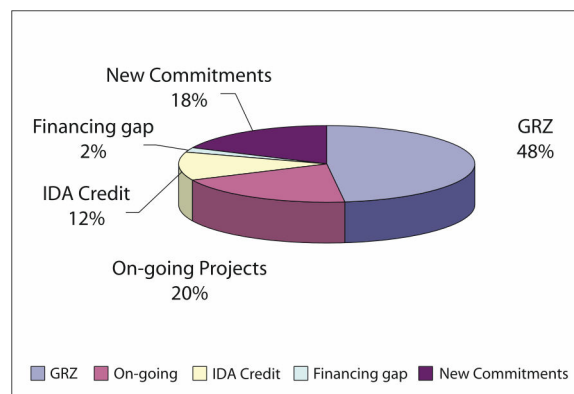
456. The conceptualization and development of BESSIP came to fruition during the period 1998-1999. The Programme marked the end of an era of isolated and uncoordinated projects and ushered in a new era of a more comprehensive sector-wide approach. Ongoing projects continue and new projects are conceived within the tenets and requirements of BESSIP as a programme.

### **The cost of the basic education programme**

457. The Government will finance about 49 per cent of BESSIP expenditures during the period 1999-2001, mainly for teachers' salaries, with external financing agencies providing the remaining 51 per cent. The figure below illustrates the BESSIP financing arrangement.

**Figure 1**

**BESSIP financing arrangement, 1999-2001**



Source: Ministry of Education, 2000.

### **Donor intervention**

458. Donor assistance to the education sector has been a very significant form of intervention. Assistance has been provided through project financing and technical assistance, which has been given in the following forms:

- (a) Assistance that comes from multilateral development banks, for example the Bretton Woods institutions (the World Bank and IMF) and the African Development Bank (ADB);

(b) Bilateral assistance from individual Member States, such as Canada, Denmark, Finland, Ireland, Japan, the Netherlands, Norway, Sweden, the United Kingdom and the United States;

(c) Assistance from United Nations agencies and other multilateral institutions, for example UNDP, UNESCO, UNICEF, EU and OPEC.

### **The World Bank**

459. The World Bank accounts for more than 70 per cent of the total contributions to BESSIP. Its assistance is provided in various forms, such as project finance and technical assistance.

460. World Bank assistance in the education sector is specifically directed towards consolidation of a number of services responsible for education delivery, including curriculum development and the provision of education material and additional facilities to a number of secondary and primary schools. The World Bank provides technical assistance to administration and teaching in project institutions and evaluation of various training programmes.

### **Japanese International Cooperating Agency (JICA)**

461. JICA is providing assistance in the form of project financing, the construction of basic and secondary schools and higher institutions of learning that is, colleges, the University of Zambia and the Copperbelt University.

### **African Development Bank (ADB)**

462. ADB provides project financing as well as technical assistance. The Bank financed the construction of three secondary schools and is currently constructing, rehabilitating and upgrading 24 primary schools in various parts of the country, two technical secondary schools and one teacher training college.

### **Oil producing and exporting countries**

463. OPEC financed a primary upgrading school project (OPSUP), which will construct and rehabilitate 59 primary schools throughout the Republic of Zambia.

### **Finnish International Development Agency (FINNIDA)**

464. FINNIDA is financing a primary school upgrading project, which aims to construct and rehabilitate 385 primary schools in various parts of the country.

### **Irish Aid**

465. Irish Aid has financed a primary school project, which will construct and rehabilitate 18 primary schools in the Northern Province.

### Donors involved in the education sector

466. In the area of support to basic education, (including construction of schools and upgrading teacher training colleges), the main contributors are ADB, DANIDA, DFID, EU, FINNIDA, Irish Aid, JICA, the Netherlands, and the World Bank.

467. Among donors contributing to training interventions are CIDA, DANIDA, DFID, EU, FINNIDA, ILO, JICA, NORAD, SIDA, UNESCO, UNICEF, and other cooperating partners. Other development agencies include those indicated in Table 11 below.

**Table 11**

### Donor interventions in the education sector

Agency	Sector issues	Activities and focus
DFID	Programme management; Teacher development; Reading in Zambian languages	Support for pre-BESSIP fund; AIEMS (Action to Improve English, Mathematics and Science); Literacy and reading in Zambian languages
Irish Aid	Programme management; Basic school infrastructure; Teacher development	Support for pre-BESSIP fund; Region-based support for education in Northern Province
DANIDA	Teacher development; Curriculum development	Support for ZATEC; Support for curriculum review
FINNIDA	Basic school infrastructure	Support for Buildings Unit, Ministry of Education; Maintenance and rehabilitation
JICA	Basic school infrastructure	School construction
Netherlands	Programme management; Quality decentralization; Equity	Support for BESSIP preparatory fund; Support for quality enhancement, decentralization and equity in Western Province; Co-financed ZERP
Norway	Education materials; Equity	Support for pre-BESSIP fund; Support for provision and distribution of textbooks; Support for distance education programme and NGO activities
USAID	Equity	Girls' education

**Table 11 (continued)**

Agency	Sector issues	Activities and focus
EU	Equity; Capacity building; Basic school infrastructure	Pilot bursary scheme; Technical assistance and training for Planning Unit, MOE; Support for Micro Projects Unit
UNICEF	Equity and girls' education community schools; HIV/AIDS; Education materials	(PAGE) Programme for the Advancement Action of Girls' Education in Eastern Province; HIV/AIDS, life skills, community schools, school health and nutrition
UNDP	Capacity building	Support for Central Ministry training.
OPEC	Basic school infrastructure	School construction
ADB	Basic school infrastructure	School construction and rehabilitation

It is clear from the table that there is good external support to education.

#### **AIMS OF EDUCATION**

468. The State party wishes to inform the Committee that the aims of education in Zambia are consistent with CRC articles relating to education and training.

469. The aims of education in Zambia are as follows:

- (a) To produce a learner capable of:
  - (i) Being animated by a personally held set of civic, moral and spiritual values;
  - (ii) Developing an analytical, innovative, creative and constructive mind;
  - (iii) Appreciating the relationship between scientific thought and, action and technology on the one hand, and sustenance of the quality of life on the other;
  - (iv) Freely expressing his or her own ideas and showing tolerance for other people's views;
  - (v) Cherishing and safeguarding individual liberties and human rights;
  - (vi) Appreciating Zambia's ethnic cultures, customs and traditions, and upholding national pride, sovereignty, peace, freedom and independence;

- (vii) Participating in the preservation of the ecosystems in one's immediate and distant environments;
  - (viii) Maintaining and observing discipline and hard work as the cornerstones of personal and national development;
- (b) To provide greater access to education and life skills training.

## **LEISURE AND CULTURAL ACTIVITIES**

470. Zambia does not have the classifications of indigenous populations and minority communities as defined by the United Nations Organization. Zambia has ethnic groups that are all indigenous.

## **DEFINITIONS OF CULTURE**

471. The State party wishes to affirm that it recognizes the right of a child to enjoy the activities articulated in article 31 of CRC. In this regard, culture is defined as the way of life of a given society or social group. In the Zambian context, culture not only includes arts and crafts, but also beliefs, taboos and practices that are peculiar to the different ethnic groups (Communication from the Department of Culture).

472. Every family and community in Zambia is free to use the language, traditions and practices of its own choice. Family, community and village life in Zambia has its own unique characteristics and it would not be in the interests of the nation to enter into regulation of cultural activities except in the area of regulated art and performances, which fall under the National Arts Council created by the National Arts Council Act No. 31 of 1994. The Council has the following functions:

- (a) Responsibility for the development, promotion and regulation of performing, literary and visual arts;
- (b) Granting licences to arts, promotion agencies and other show business enterprises;
- (c) Funding and facilitating funding for affiliate associations at community and school levels;
- (d) Organizing competitions at the national level to enhance performance and production standards in the arts.

473. The Copyright and Performance Act No. 44 of 1994 establishes the Zambia Music Copyright Society, which protects all works and products of cultural significance. It is understood that these pieces of legislation include children.

474. The State party wishes to emphasize that culture is a very important aspect of Zambian life and it influences how people conduct their affairs. The nature of the society is such that in

rural areas, particularly in villages, the village participates in bringing up children and certain norms of behaviour are inherent. Therefore, children's plays and games intended to promote child development are organized both formally and informally with minimum State participation.

475. In some urban areas and rural communities, the Department of Culture provides infrastructure and resources for the development of motor and cultural skills of children. There are social welfare halls scattered throughout the country providing venues to support leisure. Schools provide structures for the development of personal talents and skills through activities, such as Girl Scouts, Boy Scouts, Chongololo Club and cultural folk songs and dances.

476. Children and their peers organize activities, such as football, netball and traditional games, or invent games on their own. The following are the most common games: Nsolo - instils appreciation of mathematical skills; Sojo - for the calculation of distances; Chiyenga/Chiato - enhances eye and hand coordination; Shungulika - for body exercise and improvement of memory; Chilikito - for balance and coordination; Waninda - calculation and alertness; Njata - alertness, physical exercise and mind training; Elioni - for body exercise and singing.

477. Due to modernization and urbanization, children have access to play parks and information technology - computers, television, radio and manufactured toys. The mainstream school system organizes sports and recreational activities for children from all family backgrounds.

478. Urbanization and participation in the money economy have had some negative consequences for children's recreation and leisure activities. Urban communities are not as open or relaxed as rural communities and this has put pressure on families.

479. Culturally, the girl child has always been treated differently from the boy child and has been deprived of rest and play owing to the emphasis on household chores and other practices, such as initiation into womanhood. The initiation of the girl child into womanhood is such that it does not allow development of assertive skills. Boys have access to leisure because they have more free time.

480. It is a major challenge to figure out how to strike the necessary balance between modern society with the advantage of information technology and the need to preserve one's culture and being.

## **ACHIEVEMENTS**

481. The State party acknowledges that its education system is in transition and in the process of being restructured to address the crisis of limited resources but pressing social needs. The following are some of the achievements made by the Government in this regard:

(a) A new national education policy, consistent with the needs of the current socio-economic environment was formulated;

(b) The implementation of BESSIP;

- (c) Establishment of Teachers Resource Centres in all provincial headquarters;
- (d) Reform of the curriculum to empower children with practical skills to facilitate child survival.

### **CONSTRAINTS AND CHALLENGES**

482. The State party wishes to inform the Committee that the following have been identified amongst the constraints and challenges:

- (a) The school-age population growth rate outstrips the availability of primary school places;
- (b) Increasing drop-out and repetition rates undermine the education system;
- (c) High drop-out rates for girls;
- (d) Declining completion rates at primary school level;
- (e) The high number of parents and guardians who are failing to meet the costs of education for their children;
- (f) Unattractive conditions of service for teachers;
- (g) Inadequate supply of teaching and learning materials, such as books and teaching aids;
- (h) The use of double and triple sessions in some schools to increase enrolment;
- (i) The inadequate number of trained teachers at all levels of the education system;
- (j) The low level of learning achievement in government and community schools;
- (k) Long walking distances to schools;
- (l) Customary attitudes that hinder the participation of girls in education;
- (m) The increasing number of vulnerable children, such as orphans and street children;
- (n) The heavy debt burden;
- (o) Low progression rates from primary to secondary education;
- (p) The high incidence of HIV/AIDS, which has resulted in a high death rate amongst teachers.

- (q) The low number of children with disabilities who have access to education;
- (r) The poor nutrition status of schoolchildren;
- (s) Preservation of one's cultural identity in the face of the onslaught of urbanization, modernization and globalization.

## **WAY FORWARD**

483. The State party acknowledges that, in spite of efforts made to achieve reforms in the education sector, there is a need to prioritize interventions in order to safeguard and retain the number of pupils in school. Efforts will be made to improve access to education by the most vulnerable groups.

484. The challenge of preserving one's cultural identity whilst adjusting to changes locally, nationally and globally are issues to be addressed. Access to and mastering technological innovations are critical to Zambia's survival. Yet, maintaining our cultural heritage is equally important. The State party wishes to acknowledge that efforts will be devoted to achieving a harmonious balance.

## **VIII. SPECIAL PROTECTION MEASURES**

### **CHILDREN IN SITUATIONS OF EMERGENCY**

#### **Refugee children**

485. The State party wishes to report that, historically, Zambia has been host to large numbers of refugees owing to protracted liberation wars and the policy of apartheid in South Africa.

486. The Refugee Control Act, chapter 120, was enacted to provide for control of refugees entering and living on Zambian territory. The focus of the Government at the time was on security threats posed by the presence of a large number of refugees entering and living on Zambian territory. Consequently, the Act does not address the important issue of conferring rights on refugees.

487. Zambia acceded to the four Geneva Conventions on international humanitarian law, of 1949, and the Additional Protocols thereto, of 1977. Consequently, Zambia is a State party to Convention No. 1 for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Convention No. 2 for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, Convention No. 3 relative to the Treatment of Prisoners of War, and Convention No. 4 relative to the Protection of Civilian Persons in Time of War.

488. Zambia is also a party to the 1951 United Nations Convention relating to the Status of Refugees and, at the regional level, to the 1969 OAU Convention Governing Specific Aspects of Refugee Problems in Africa.



489. Zambia entered reservations under the 1951 United Nations Convention to the rights relating to liberty, employment and education and to the return clause where a refugee has successfully resettled.

490. National law and the international conventions to which Zambia is a party guide its refugee policy. Consequently, a liberal asylum policy is maintained and extends asylum to all victims of individual persecution and violence occasioned by civil wars or other conflicts.

491. A camp-based residence policy for refugees is practised. This is important for the refugees' own safety, particularly in view of the type of situation they are running from. Protection of refugee camps by defence personnel has usually been necessary. However, there are exceptions to residing in the settlements or camps if one is a holder of a valid work or study permit ordinarily issued by the Zambian Department of Immigration.

492. Refugees, regardless of age, are required to register their presence with either the Immigration Department, Office of the Commissioner for Refugees of the Ministry of Home Affairs, the United Nations High Commission for Refugees (UNHCR) or the police within seven days of entering the country. Upon registration, a report order is issued by the Department of Immigration. Registration in the event of large-scale influxes is conducted by Provincial Joint Operations Committees, which are primarily constituted for security purposes, but have been given the authority to deal with refugees.

493. Status determination is conducted either through the competent minister by way of a statutory instrument in cases of large-scale influxes, or through the Commissioner for Refugees in cases of individual applicants.

494. An advisory body called the National Eligibility Committee, comprising various government officers from nine ministries and UNHCR in an observer capacity, has been established to determine refugee status at the national level. The National Eligibility Committee sits once a week to consider and decide individual applications for refugee status prepared and submitted by two lawyers trained in refugee law, who conduct preliminary interviews. The criterion used by the Committee is based on the definition of the term "refugee" contained in the 1951 United Nations Convention on the Status of Refugees.

495. Unaccompanied children go through the same procedure as adults. This approach guarantees their participation. The Eligibility Committee can, however, dispense with the presence of an applicant on account of age. Nonetheless, participation is guaranteed during the preliminary interviews. Unaccompanied children are normally represented by an elderly person, usually a recognized refugee with similar cultural background, to assist the child to present the claim. This practice is considered to be in the best interests of the child.

496. Professional interpreters are made available during the Eligibility Committee meetings. Children accompanied by their parents or legal guardian benefit from derived refugee status and are entitled to formal recognition on attainment of the age of 18.

497. In the event of large-scale influxes, random screening is conducted by Provincial Joint Operations Committees. Officers from the Office of the Commissioner for Refugees participate in the screening.

498. Refugee status is granted on a prima facie basis. This benefits children who are part of an influx. Although there is no legal right to appeal against a negative decision, appeals can be submitted to the Commissioner for Refugees or the Minister of Home Affairs. There is no record of an unaccompanied child being rejected.

### **Assistance**

499. UNHCR and its implementing partners provide material assistance in the settlements and camps. There are two refugee settlements and two refugee camps in Zambia, which accommodate mostly refugees with a rural background. Plots of land are demarcated and given to refugees who erect shelter and are provided with food (standard rations) acquired through the World Food Programme for the first two harvest seasons. Refugees are encouraged to be self-reliant and are assisted to grow their own food by providing them with the necessary implements and agricultural extension services. The needs of children are not met in isolation, but in the context of the family and community.

500. The vulnerability of children who are not accompanied by adults is recognized, and special efforts are made to monitor and ensure their well-being by meeting their basic needs. Unaccompanied children are given their own cards for distribution of food and other necessities. Usually, these children are put in foster care by authorities that monitor their progress. Formal adoptions are not encouraged because of the possibility of family reunification.

501. With regard to family reunification, UNHCR and the International Committee of the Red Cross, through the Zambia Red Cross Society, have a programme for tracing missing parents and other family members. In order to obtain information necessary for reuniting an unaccompanied child with his or her family, the Government, through the Office of the Commissioner for Refugees, grants authorization to the relevant institutions to conduct investigations in the settlements. In the event that reunification is possible, the Government also grants authorization to family members outside the country to enter Zambia.

502. The Government of Zambia is responsible for providing schools in the resettlement areas. Refugees are encouraged to construct informal primary schools when the nearest school is too far away. This will normally comprise a nursery school and the first two years of primary school. Refugee children have the same right of access to government schools as Zambian children and must similarly pay user fees.

503. Meheba Refugee Settlement is the largest in Zambia. The settlement is divided into zones. It has five basic schools, one secondary school and 10 community schools, which are administered by Lutheran World Federation. The current enrolment is 687 pupils (362 boys and 325 girls). The average age of pupils is 6-9 years. The total basic school enrolment in the settlement is 4,886 (4,127 refugees and 759 Zambians). These schools have 86 teachers in all. Meheba Secondary School has a total enrolment of 446 pupils (330 boys and 116 girls) (Communication from the Ministry of Home Affairs, 2001).

504. Urban refugee children are entitled to attend government schools on the same basis as Zambian children. A problem arose when some schools charged refugees the same fees as those for foreign pupils. This problem is being addressed.

505. Most urban refugees fend for themselves and have been encouraged to be self-reliant. Those who are able to support themselves economically pay for their children's education. However, UNHCR provides education assistance to newly arriving children and to those from vulnerable families whose caregivers are not in a position to pay school fees.

506. UNHCR is currently sponsoring 300 children in primary schools and 120 in secondary schools of urban areas. It has also provided educational assistance to 250 children in secondary schools and to 100 in primary schools of Meheba and Mayukwayukwa from old caseloads.

507. UNHCR has offered 96 scholarships to refugees for university studies and other tertiary education in technical colleges, teaching and institutions offering nursing and health science courses.

508. With funding from UNHCR, the Ministry of Health built clinics in the resettlement areas and equipped them with medical personnel and medicines. UNHCR also gives these clinics supplementary kits. With the exception of treatment of children under 5 years, user fees are payable in the clinics. Among the programmes undertaken by these clinics is an immunization campaign for under-5 children. UNHCR has on occasion sent children requiring specialist attention not available in Zambia for medical attention outside the country. There is also a clinic that provides a counselling service for refugees in Lusaka.

509. In addition, UNHCR provides training for government officials in contingency planning and emergency preparedness and holds a biannual workshop. It also tries to send a government officer every year to a protection programme outside the country. However, there is no structured programme for disseminating information and providing training in CRC itself, and there appears to be very little knowledge of CRC among the persons encountered.

510. The State party wishes to report that, despite the measures that have been put into place to take account of asylum-seeking, and refugee children, a number of problems still persist, making the efforts of the authorities difficult. Because of the number of conflicts in the region, there is a continuous influx of refugees, which continues to put pressure on the limited resources available for refugees. This has resulted in inadequate education and health facilities in the camps and settlements, as well as in inadequate food supply. There are also problems in collecting disaggregated data. Efforts by the international community to assist in easing Zambia's burden of hosting refugees could be strengthened and made more consistent. There is a need to mobilize more resources through the international community and to target the same towards developing more social amenities within and outside the settlements in response to the increase in the number of refugee children as a result of conflicts on the continent. There is also a need to ensure local capacity-building to address the issues of refugees.

511. The State party wishes to point out that the need to review existing legislation dealing with refugees so as to bring it in line with international practice and norms has been recognized.

512. The State party wishes to acknowledge the efforts of NGOs, such as Lutheran World Federation, Young Men's Christian Association, Care International, Jesuit Refugee Services and the Zambia Red Cross Society, at supplementing Government activities.

### **CHILDREN IN ARMED CONFLICT, INCLUDING PHYSICAL AND PSYCHOLOGICAL RECOVERY AND SOCIAL REINTEGRATION**

513. Zambia has not experienced any armed conflict, hence the issue of preventing children's participation in armed conflict does not arise. Nonetheless, certain legal measures are in place to protect children from being recruited into the army (see chapter II - Definition of a Child).

514. For one to be recruited into the army, it has to be established that the applicant is a Zambian citizen and holder of a green national registration card. This practice excludes children below the age of 16 from enlisting into the army, thereby enhancing their protection.

515. Enlistment is entirely voluntary and no one can be forcibly conscripted into the army. Protection from compulsory recruitment is further guaranteed by the fact that there are a large number of retired defence personnel who can be recalled under their conditions of service.

516. In relation to refugee children, the requirement that one be a Zambian national for enlistment eliminates the possibility of a refugee child being recruited into the armed forces. Secondly, the mere act of placing refugees in excess of 60 kilometres from the border minimizes the chances of their recruitment by their countries of origin. The presence of police officers within settlements for security purposes minimizes also attempts to recruit refugee children from within settlements.

517. With regard to refugees, programmes to ensure their appropriate recovery and social reintegration are administered by UNHCR and its implementing partners both within and outside settlements.

### **ADMINISTRATION OF JUVENILE JUSTICE**

518. The juvenile justice system in Zambia takes into account the age of a child in conflict with the law with regard to treatment (see chapter II - Definition of Child).

519. In this respect, the Juveniles Act contains provisions designed to prevent as far as possible, juveniles from associating with adults during detention; to dispose of cases involving children in special juvenile courts; to abolish the use of terms such as "conviction" and "sentence" in relation to juveniles; and to prohibit the imprisonment of children and of young persons if these can be dealt with in any other manner.

520. The whole system of juvenile justice is premised on reform and rehabilitation as evidenced by the provision for approved schools and reformatories based on education and trades training to enable juveniles to lead useful lives in their communities. As much as possible efforts are made to prevent children from sliding into greater criminality, for example by preventing them from coming into contact with adult offenders.

521. Youth is also one of the extenuating circumstances, which can lead to an order for probation under the Probation of Offenders Act, chapter 93, rather than a sentence, where the offence is one that does not have a mandatory sentence prescribed by law. Where the offender is under 19 years, the probation order must be made with the express willingness of the juvenile concerned because of the implications of failing to comply with the requirements of the order.

### **Legal guarantees**

522. It is an established principle of Zambian law, and one that is constitutionally guaranteed, that no person shall be held guilty of a criminal offence on account of an act or omission that did not, at the time it took place, constitute a criminal offence. Therefore, no child can be accused of, or alleged or recognized as, having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time that they were committed. There is no record in Zambia of such an occurrence.

523. The Constitution provides legal guarantees to ensure a fair trial to every person under Zambian law without any designation of age. The Constitution makes specific reference to “the welfare of persons under the age of 18 years” thus indicating that children are also viewed as beneficiaries of the fundamental right to equal protection of the law and due process.

524. A child has the right to be presumed innocent until proven guilty and to be informed, as soon as is reasonably practicable in a language that the child understands and in detail, of the nature of the offence he or she is alleged to have committed. Unless legal aid is granted, a child has a right to have legal representation of his or her own choice at his or her own expense. Children have a right to a fair hearing within a reasonable time by an independent and impartial court established by law and cannot be compelled to give evidence at the trial. Children have a right to examine in person, or through their legal representatives, the witnesses called by the prosecution and to examine witnesses testifying on their behalf before the court on the same conditions as the witnesses called by the prosecution. Children have a right to the legal assistance of an interpreter if the child cannot speak or understand the language used at the trial.

525. Whereas court proceedings are normally held in public, the Constitution has recognized the need for the court or other adjudicating authority to exclude from the proceedings persons other than concerned parties and their legal representatives for various reasons, such as in the interests of defence, public safety, public order, and public morality and also in the interests of the welfare of persons under the age of 18 years.

526. Protection of the privacy of proceedings involving juveniles in conflict with the law is further amplified in the Juveniles Act. No person may be present at any sitting of the juvenile court or at any sitting of the High Court hearing charges against a juvenile not jointly charged with a person who is not a juvenile, except members and officers of the court; parties to the case, their legal advisers, witnesses and other persons directly concerned in that case; bona fide representatives of newspapers and news agencies; and such other persons as the court may specifically authorize to be present.

527. There are provisions governing how the press may report on proceedings concerning juveniles. No newspaper report or radio broadcast of proceedings may reveal the name, address or school, or include any particulars calculated to lead to the identification, of the juvenile concerned, whether as the offender, victim or witness. Pictures are also not to be published of the concerned juveniles. These provisions may be waived only by the court or the Minister responsible for Juvenile Welfare if they are satisfied that it is in the interests of justice to do so. Any person who contravenes the provisions is liable to a fine.

528. Unfortunately, these provisions are flouted with impunity by the media. This is an omission in their professional training, which appears to make them totally insensitive to the potential negative effect of the publicity of the children concerned. There appears not to have been a case of a journalist being cited for contravention of these provisions and, even if they were, the applicable fines are too low to be a real deterrent. The State party acknowledges that there is a need to educate the media to respect these provisions.

529. The presence of parents or legal guardians during judicial or other proceedings is provided for in the Juveniles Act, but not in the Constitution. If a parent can be found and resides within a reasonable distance, the parent will be required to attend the proceedings unless the court is satisfied that it would be unreasonable to require the parent's attendance. Indeed, a parent who is required to attend proceedings and who has been duly notified but fails to attend without reasonable excuse, may be fined.

530. There is judicial authority indicating the importance that courts attach to the attendance of parents. In *Tembo v. The People* case, (1974) (Zambia Law Reports, at p. 286) the Supreme Court held that: "Section 127 of the Juvenile Act, chapter 217, stresses the importance which the legislation attaches to the attendance wherever possible, during all stages of the proceedings, of the parent or guardian of the juvenile and sets out in detail the procedure to be adopted and circumstances in which this attendance may be dispensed with. In all cases the record should disclose that these provisions having in fact been complied with and, where the parent or guardian is not required to be present, the reasons why his attendance has been dispensed with should be stated."

531. The *Tembo* case has been followed in *Clever Chalimbana v. The People* case, (1977) (*ibid.*, at p. 292), in which the juvenile changed his plea from guilty to not guilty without parental guidance. In this case, the Supreme Court emphasized that the important consideration is that the provisions should be complied with so that the juvenile can be treated fairly. It was also held that this section is not restricted to proceedings in juvenile courts only, but must be complied with by all courts before which juveniles appear. It is the duty of the court to call the parent or guardian to attend court proceedings in a case in which a juvenile is charged with an offence.

532. In practice, when children are apprehended for being in conflict with the law, the police get in touch with officials from the Social Welfare Department, who then visit the children and try to get particulars about their parents or next of kin. Unfortunately and very often, children are not willing to divulge their correct address, thus making it difficult for parents to be found and informed.

533. The right to appeal is not expressly stated in the Constitution, although it is implicit as part of the due process. However, the right to appeal is expressly provided for in various pieces of legislation, including the Juveniles Act.

## **GENERAL PRINCIPLES**

### **Non-discrimination**

534. Some discrimination is applied with regard to the application of certain provisions dealing with children in conflict with the law. The law contains some discriminatory exceptions to the application of certain safeguards. Children who are alleged to have, or accused of having, committed homicide or other grave offences do not benefit from the safeguards and guarantees afforded by the system of juvenile justice.

535. A juvenile alleged to have, or accused of having, committed homicide or other grave crimes is not entitled to benefit from the provisions for bail under section 59 of the Juveniles Act. Another group that falls in between the cracks are children who are charged together with adults. Such cases are held in an ordinary court that has jurisdiction over the matter.

### **Best interests**

536. The aim of establishing a juvenile justice system is to ensure the best interests of the child in that special procedures are put in place in juvenile courts. If the court is satisfied that an offence has been committed by a juvenile, apart from allowing the juvenile to express his or her views on the penalty, before it decides how to deal with him or her, the court must, if practicable, obtain information as to the juvenile's general conduct, home surroundings, school record and medical history. This will enable the court to deal with the case in the best interests of the juvenile.

537. Under the Juveniles Act and the Probation of Offenders Act, the Director of the Department of Social Welfare has been designated as Commissioner for Juvenile Welfare and Principal Probation Officer. Other officers in the Department are appointed as juvenile inspectors, senior probation officers, and probation officers.

### **Participation**

538. Both the Republican Constitution and the Juveniles Act provide for legal representation of a juvenile in juvenile proceedings. The Zambian juvenile justice system also recognizes the child's right to directly participate in the proceedings either by himself and/or with the help of a parent or legal guardian. Where a juvenile is not legally represented, the juvenile has the right to examine witnesses. Where it appears that a prima facie case is made out, in addition to any witnesses for the defence being called, the juvenile can also give evidence or make a statement. When the court is satisfied that an offence is proved, the juvenile is given an opportunity to say something in mitigation. A juvenile may also be asked questions with respect to the contents of his or her social welfare report before a court. As already stated above, a juvenile must consent to a probation order.

**International instruments**

539. With regard to the United Nations rules in the area of juvenile justice, namely the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules); the United Nations Guidelines for the Protection of Juvenile Delinquency (the Riyadh Rules); and the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty, although some of the guidelines are already contained in Zambian law, these rules do not appear to be well known by the relevant authorities and have, hitherto, not formed part of the discourse on the subject matter. This shortcoming has been noted for future developments in this field.

**CHILDREN DEPRIVED OF THEIR LIBERTY**

540. The Republican Constitution, the Penal Code and the Juveniles Act spell out the circumstances under which a child may be deprived of his or her liberty. The arrest, detention or imprisonment of a child is a measure taken as a last resort.

541. The Penal Code does not provide a definite time frame within which an arrested child should be brought before court, but obliges competent authorities to expedite proceedings by using terms such as reasonable time or minimum delay. The Juveniles Act and the Penal Code ensure that no child may be arrested, detained or tried by making provision for non-liability of children below the age of 8. The Probation of Offenders Act offers alternatives to detention by way of probation orders.

542. The Immigration and Deportation Act also provides instances when liberty may be withdrawn, that is in instances where one is suspected of being, or declared to be, an illegal immigrant.

543. The Act does not provide for refugees or asylum-seekers. Asylum-seekers upon registration are referred to the Department of Immigration where they are issued with report orders by the Immigration Department. Refugees with either work or study permits are authorized to reside outside the settlements. Those without permits risk being detained for purposes of relocation to the settlement in accordance with the residence policy. A refugee leaving the settlement is issued with a gate pass valid for a certain duration of time depending on the nature of the reason for leaving the settlement. The Immigration Act does not define a minimum age below which a child may have his or her liberty restricted nor does it not provide that detention may be used as a measure of last resort. However, the alternative to detention is the report order.

544. The Constitution of Zambia and the Juveniles Act protect children from arbitrary restriction in State-provided institutions and services as well as in other institutions. This legislation extends to parents and guardians as well as to foster parents.

545. The Juveniles Act guarantees a child's right to a periodic review of his situation. Children are provided with education and health services within the framework of the Juveniles Act. Unfortunately, these services are not usually readily available owing to the unfavourable economic situation in the country. This situation has also resulted in the lack of prompt access to



legal and other appropriate assistance. An Advisory Committee was constituted under the Juveniles Act to review conditions in reformatories or correctional schools and to hear complaints by the children. The Act further requires that all details pertaining to a child in detention be registered.

546. The Juveniles Act requires that children be separated from adult offenders. However, due to financial constraints this has proved to be difficult to achieve.

547. The Juveniles Act guarantees a child's right to maintain access to members of his or her family through correspondence. The Constitution of Zambia and the Juveniles Act guarantee a child's right to having access to legal representation.

548. The following international instruments to which Zambia is a party also set standards to be followed in cases of deprivation of liberty: the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Rules), and the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty.

549. The State party wishes to inform the Committee that the general malaise of the economy of the country is seriously hindering the efforts of the Government as far as the administration of juvenile justice is concerned. It is agreed that when dealing with juvenile offenders, certain safeguards are supposed to be put in place, for example the provision of adequate physical infrastructure to ensure that children are detained separately from adults. The training of officers dealing with children is inadequate and, as a consequence, untrained and ill-equipped officers may handle cases of children. Nevertheless, the Committee may wish to take note that the State party is currently undertaking a study on reforming the administration of juvenile justice in Zambia. It is anticipated that these concerns will be addressed and adapted to Zambia's changing social circumstances. It is also anticipated that the necessary law reform will be undertaken to bring Zambian law into conformity with international standards.

## **SENTENCING OF CHILDREN**

550. The State party wishes to draw the Committee's attention to the Clusters on General Measures of Implementation and General Principles under which the issue of the imposition of capital punishment on persons below 18 years of age is addressed.

551. With regard to life imprisonment, there is a possibility of release in that the President can exercise the prerogative of mercy at any time.

## **ECONOMIC EXPLOITATION OF CHILDREN, INCLUDING CHILD LABOUR**

552. There are several pieces of legislation protecting children from economic exploitation, such as the Republican Constitution, the Employment of Young Persons Act, and the Apprenticeship Act.

553. In addition, Zambia is a party to ILO Convention No. 182 on the Worst Forms of Child Labour.

### **Protective measures**

554. The Government has put in place the following protective measures to safeguard children against economic exploitation and child labour (see chapter I - General measures).

### **Complaint's procedure**

555. Where child exploitation in the form of child labour is identified, the following mechanisms are available for the channelling of complaints: the Inspectorate at the Ministry of Labour and Social Security; the Victim Support Units of Zambia Police Service Stations; and NGOs such as YWCA and CYC. In some cases, children act as watchdogs for one another through child-to-child approaches.

### **Monitoring mechanism**

556. To ensure effective implementation of programmes to combat economic exploitation and child labour there exist mechanisms, such as the Inter-ministerial Committee on Child Labour, technical planning and monitoring groups and the Inspectorate in the Ministry of Labour and Social Security.

557. Networks, such as CHIN, and CYC, run programmes in schools and country clubs.

558. The State party wishes to acknowledge that it considers the lack of disaggregated data on child labour as a serious constraint. There is the added difficulty in collecting statistics of children employed in the informal sector which are important for putting in place measures to guard against economic exploitation of children and to deal with child labour.

### **DRUG ABUSE**

559. The State party wishes to inform the Committee that there are two statutes dealing with the problem of drugs, namely the Dangerous Drugs Act (chap. 95) of the Laws of Zambia and the Narcotic Drugs and Psychotropic Substances Act (chap. 96) of the Laws of Zambia.

560. The Dangerous Drugs Act provides measures for the control of the importation, exportation, production, possession, sale, distribution and use of dangerous drugs. The Narcotic Drugs and Psychotropic Substances Act provides for the continuation of the Drug Enforcement Commission; revises and consolidates the law relating to narcotic drugs and psychotropic substances; incorporates into Zambian law certain international conventions governing illicit drugs and psychotropic substances; and controls the importation, exportation, production, possession, sale, distribution and use of narcotic drugs and psychotropic substances.

561. Zambia ratified the United Nations Single Convention on Narcotic Drugs of 1961 as amended by the 1972 Protocol Amending the Single Convention on Narcotic Drugs of 1961; the 1971 Convention on Psychotropic Substances; and the 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.

562. Zambia is also a signatory to the Protocol on Combating Illicit Drug Trafficking in the Southern African Development Community (SADC) Region.
563. The Drug Enforcement Commission (DEC) has drawn up a policy focusing on education, demand, reduction, community awareness and prevention programme on illicit drugs.
564. Priorities in the policy are:
- (a) The establishment of a database to analyse, evaluate, share and disseminate information on the problems associated with drug abuse;
  - (b) School programmes on prevention and education;
  - (c) Out-of-school youth programmes;
  - (d) Community awareness and prevention at the workplace.
565. DEC does not look at drug abuse by children as a criminal act, but as a health problem. A child who is found using drugs and not trafficking will not be taken into the criminal justice system. Such a case is regarded as one for rehabilitation.

#### **Awareness-raising**

566. DEC has a division called National Educational Campaign Division, which disseminates information to schools, communities and workplaces. An advisory committee comprising heads of schools has been established to spearhead an educational campaign on drug and alcohol abuse in schools.
567. The formation of the Advisory Committee has also led to the formation of anti-drug abuse clubs in learning institutions. These clubs use drama, music, poetry, debates, and radio programmes to reach out to those in need. Steps have also been taken to introduce drug-related topics in school curricula especially in environmental science and social studies.
568. NGOs and churches, through the Peer Education Approach both in urban and rural areas, supplement efforts made by DEC.

#### **Rehabilitation of victims of drug abuse**

569. Rehabilitation and counselling services are provided to victims of drug abuse. For those requiring admissions, arrangements are made at University Teaching Hospital, Maina Soko Military Hospital and Chainama Hospital in Lusaka.
570. The State party wishes to inform the Committee that a number of problems have been encountered, such as inadequate centres or hospitals to deal with victims of drug abuse. Budgetary allocations have not been increased to enhance availability of services and raise

awareness among the general public of drug abuse. Not much research has been done on the problem and extent of drug abuse in Zambia. Awareness-raising campaigns by DEC on drug abuse are not adequate.

571. The law does not create specific offences to protect children from the use of drugs or psychotropic substances, and there is no legal distinction between inducing a child or an adult to take drugs and selling drugs to adults or children.

## **SEXUAL EXPLOITATION AND SEXUAL ABUSE**

572. The State party wishes to inform the Committee that the Constitution of Zambia, the Penal Code and the Juveniles Act prohibit sexual exploitation and sexual abuse.

573. Zambia has established joint commissions with various countries to deal with various issues, including child sexual abuse. The principle of extraterritoriality with regard to sexual abuse is enforced by the Joint Permanent Commissions through SADC arrangements.

574. NGOs such as YWCA have specific programmes for awareness-raising campaigns on child sexual abuse and provide counselling, life skills and safety to children who have been sexually abused.

575. The Victim Support Unit, the Consortium on Reproductive Health, Radio Programmes, such as “Children are People Too” and “Aunt Josephine”, and other programmes tackle issues of child sexual abuse.

576. National and Multidisciplinary approach: CHIN, a network coordinating the work of organizations dealing with children, has established a “reference group” on child abuse. The Permanent Human Rights Commission has a Committee on Children, which is working on establishing a help line. Victim Support Units of the police service throughout the country have been established to deal with various issues, including child sexual abuse.

577. The State party wishes to acknowledge that it has faced a number of problems in dealing with this issue. One of the very big problems is the reluctance of families and the general public to acknowledge the existence of the problem. The very lack of data and of disaggregated data on child sexual abuse in particular is also a problem. The dual legal system (statutory/customary) contributes to child sexual abuse in that children are married off at an early age as long as parents give consent. These children are usually victims of sexual abuse in their marriages. The high poverty levels and the HIV/AIDS pandemic have aggravated the problem of child sexual abuse.

578. The State party will need to step up activities in this important area. It recognizes the need for advocacy and promotion of children’s rights, reinforcement of laws protecting children, education on HIV/AIDS for all, provision of sustainable poverty alleviation programmes, particularly to families looking after orphans and vulnerable children, and amendment of legislation to provide for stiffer penalties for child sexual abuse.

### **Sale, trafficking and abduction**

579. The State party wishes to inform the Committee that the prohibition of the sale and trafficking of children is contained in the Republican Constitution, which states that “a young person shall not be the subject of traffic in any form”. In addition, the Adoption Act, chapter 54 and the Penal Code, chapter 87, of the Laws of Zambia prohibit the sale and abduction of children and the sale and trafficking of children, respectively.

580. The Police Service, Immigration Department and the International Social Services Network protect children from sale and trafficking. The Joint Permanent Commissions between Zambia and other countries in the region help to prevent the sale and trafficking of children. DEC is vested with the authority to pursue cases of abduction and trafficking of children, thereby enhancing their protection.

### **ACHIEVEMENTS**

581. The following are some of the achievements in this regard:

- (a) Anti-drug Day is commemorated every year;
- (b) Anti-drug clubs have been formed in schools, colleges and universities;
- (c) A National Steering Committee has been established to protect children against the worst forms of labour abuse, and the production, trafficking and use of illicit drugs.

### **CONSTRAINTS AND CHALLENGES**

582. The following challenges and constraints impede progress:

- (a) Inadequate centres to assist victims of drug abuse;
- (b) Lack of disaggregated data on the use of drugs;
- (c) Stigma is attached to patients who have received rehabilitation at the only hospital in the country that provides such service, Chainama Hospital, because it is associated with patients who have mental disorders;
- (d) Lack of disaggregated data on child abuse, particularly sexual abuse;
- (e) Dual legal system of statutory and customary laws.

## **WAY FORWARD**

583. The following are some of the initiatives the State party will consider:

- (a) Review legislation on refugees;
- (b) Establish separate detention centres for children at police stations.

## **IX. CONCLUSION**

584. The State party wishes to conclude by asserting that the process of reviewing the implementation of the Convention on the Rights of the Child has brought out the need to renew Zambia's commitment to children's rights by advancing a new vision for the new century: a vision in which every child will have a healthy beginning, access to quality education and the opportunity to develop to his or her fullest potential.

585. A number of challenges have been identified such as identifying legislation that will need to be amended or even repealed to ensure the protection of the rights of children. There is also the need to establish or strengthen existing mechanisms to ensure the protection of the child. Priority will need to be given to the problem of the HIV/AIDS pandemic, particularly in terms of dealing with vulnerable children, especially orphans.

586. The Government will also need to work at finding a durable solution to the problem of the debt burden in cooperation with the international community. Cancellation of Zambia's bilateral and multilateral debt is of paramount importance, and raises a moral issue in that it is widely acknowledged that the very act of debt servicing aimed at enhancing resources for development through donor assistance which is supposed to bridge domestic resource gaps, drains the country's domestic resources that could otherwise have been channelled into important development activities one of which is investment in the protection of children.

587. However, the underlying solution is that people need to be empowered to help themselves through enhanced investment in their basic capabilities. There is a need to achieve stronger economic growth in order to ensure sustainable livelihoods of people and by so doing enable them to lift themselves out of poverty.

588. The Government, with the help of its cooperating partners, will therefore pursue the following objectives:

### **Achieving broad-based economic growth**

589. Under this strategy, policy measures to be undertaken include: increasing small holder's access and right to land and according priority to women; increasing access to credit by poor rural households and small-scale industries; promoting research to develop women's labour-saving technologies and drought-resistant crops; promoting agricultural diversification; broadening rural infrastructure investment, especially in roads; improving community-based storage facilities and water supply; increasing small holders' access to market information and skills; and reinforcing and supporting disaster relief and coordination.

### **Providing and rehabilitating public physical infrastructure**

590. The policy measures under this strategy will comprise: promoting construction, rehabilitation and maintenance of rural roads, bridges and canals, using labour-intensive methods; constructing local markets, clean water facilities; supporting the development of transport and communication systems as well as schools, health centres and postal services in urban and rural areas; constructing irrigation systems, boreholes, dams and wells; and ensuring community participation in decision-making and implementation regarding the development and maintenance of both physical and social infrastructure.

### **Increasing the productivity of the urban microenterprises and informal sector**

591. The aim here is to create an enabling environment for the success of microenterprises by designing suitable innovative credit schemes; removing regulatory constraints; developing formal-informal linkage; increasing access to market information; and promoting skills development.

### **Developing human resources**

592. Human resources development entails meeting people's basic needs in terms of health, including reproductive health, nutrition, water and sanitation, family planning, and education and skills development. The policy measures to achieve this include: devolving social service delivery to the district level; protecting basic social service expenditure from possible budget cuts and maintaining them in line with the 20:20 Initiative; strengthening and improving social safety nets; promoting an essential package of cost-effective primary health-care service; promoting skills development and vocational training; intensifying land resettlement programme for the retrenched employees; improving the provision of adequate clean and safe water, as well as sanitary conditions; intensifying HIV/AIDS awareness-raising campaign; and improving quality information campaign based on population policy through formal and non-formal education.

### **Coordinating, monitoring, evaluating and implementing poverty reduction programmes and strategies**

593. It is recognized that poverty is a cross-cutting issue that cannot be solved by the Government alone. Hence the Government has to coordinate with NGOs, the private sector and the community. To develop an institutional framework to achieve this, the following measures are to be put in place: enhancing the capacity of the Ministry of Community Development and Social Welfare; creating a data bank on poverty reduction and alleviation and promoting research on poverty; establishing a regular participatory poverty impact-monitoring system; coordinating or developing service delivery systems at the central, provincial, district and community levels; coordinating resource mobilization for poverty reduction programmes and initiatives at the international, regional and sub-regional levels.

594. The Government is confident that the achievement of the above objectives will revitalize the economy and ensure investment in the social sector, particularly in the areas of health and education, which is absolutely necessary if Zambia is to succeed in its efforts to improve the well-being of children and to ensure the protection of the rights of children as provided in the Convention on the Rights of the Child.

### Notes

<sup>1</sup> A census exercise was conducted in the year 2000 and data is still being analysed. The most recent disaggregated information on Zambia's demographic profile is not yet available. The population statistics quoted in this report are based on the Central Statistical Office's pre-2000 census data, unless otherwise stated.

<sup>2</sup> Hereafter, referred to as the "Constitution".

<sup>3</sup> The definition is taken from Longmans *Dictionary of English Language*, Second Edition, 1991.

<sup>4</sup> The statutes cited refer to the Laws of Zambia, unless otherwise specifically stated.

<sup>5</sup> Social policy can be formulated through a Cabinet Memorandum, Act of Parliament or sectoral policy formation developed through the initiative of a sector ministry. Sectoral policies must be approved by Cabinet.

<sup>6</sup> The distinction between a child and young person will be explained in the next chapter.

<sup>7</sup> More adults than children were aware, representing a ratio of 22.9 per cent to 14 per cent, and more urban respondents than rural respondents were aware, representing a ratio of 24.7 per cent against 14 per cent. More opinion leaders (42 per cent) were knowledgeable about the CRC than parents of school-going children (15.4 per cent) and parents of non-school-going children (11 per cent). More school-going children (20.7 per cent) were aware of the CRC than non-school-going children (7.3 per cent), and more males (25 per cent) were aware than females (14.5 per cent).

<sup>8</sup> For instance, girls generally reach puberty at an earlier age than boys. Consequently, young pubescent girls are likely to be considered as adults under customary law whilst boys of the same age may still be considered as children.

<sup>9</sup> Defilement involves sexual penetration of a girl under the age of 16 years.

<sup>10</sup> At an informal level, children often are given other names by family members or assume a name of their choice upon entering school.

<sup>11</sup> It is noted that Zambia relies on the above-mentioned Rules where the Rules of the Zambian Supreme Court have not been developed.

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