



**SUBMISSION BY CHILD RIGHTS FOCUSED CIVIL SOCIETY  
ORGANISATIONS IN ZAMBIA RELATED TO THE ZAMBIA UNIVERSAL  
PERIODIC REVIEW 2<sup>nd</sup> SESSION**

**CHILDREN'S RIGHTS IN ZAMBIA: KEY ISSUES OF CONCERN**

*1. General Measures of Implementation*

**a. Legislation:** The Zambian government, through the Ministry of Community Development and Social Services (MCDSS) has embarked on a law reform process to comprehensively review various pieces of child related legislation in order to harmonize them and to bring them in line with the general principles of the United Nations Convention on the Rights of the Child (UNCRC). However, the process is slow and has on occasion stalled and there is still lack of clarity regarding the process and the mandate of MCDSS to review all child related legislation.

**Recommendations:**

- **The government should take advantage of the goodwill shown by children's rights non governmental organizations to speed up the law reform process and within the next three years have a comprehensive Children's Act that will offer effective protection of children in the country.**
- **The law reform process needs to be anchored in the right structure of government (specifically the Zambia Law Development Commission supported by the Ministry of Justice) so that it can be comprehensively and effectively addressed.**

**b. Coordination:** The National Child Council has not yet been established; therefore there is still poor coordination of programmes relating to the implementation of the UNCRC. The National Orphans and Vulnerable Children Steering Committee 'is not functioning'<sup>1</sup>

**Recommendation:**

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<sup>1</sup> Orphans and Vulnerable Children in Zambia, Situation Analysis, 2004, page 26

- **The government should immediately set up a National Child Council and coordination of the implementation of the UNCRC in the country should be a key mandate of this body.**

**c. National Plan of Action:** Although there is now a new National Child Policy (2006) that has taken into account the worsening situation of OVCs in the country, there is still no National Plan of Action to translate the policy into programmes, except a draft.

**Recommendation:**

- **The government should finalize the Nation Plan of Action and allocate progressively sufficient human and financial resources in line with other planning documents such as the Fifth National Development Plan.**
- **The government should elaborate a comprehensive national programme for children that stakeholders can work within and support.**

**d. Independent Monitoring Structure:** There has been visible strengthening of the Human Rights Commission in terms of human and other resources. However, the Child Rights Committee that was formed under the Commission to strengthen the monitoring and implementation of the UNCRC has not performed according to expectation due to inadequate resources and manpower. There is a new process to strengthen the independent monitoring of children's rights under the Commission through the establishment of the Commissioner for Children.

**Recommendations:**

- **The Government of Zambia should progressively scale up the human and financial resources to the Commission for it to effectively perform its functions.**
- **The Government of Zambia should promote the establishment of institutions such as the Office of the Commissioner for Children to effectively promote and protect children's rights and such institutions need to be vested with the relevant power and authority to effectively protect children and to uphold their rights.**

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**e. Data Collection/ Resources for Children:** 'Except for the Ministry of Education, all other ministries working with children have no data bases on children and that information on children in need of special care and protection is not readily available. Where data is available there is no mechanism or indicators to check that the data collected are in line with the UNCRC.'<sup>2</sup> Although since 2005 the government has

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<sup>2</sup> Monitoring the Implementation of the UNCRC, Children in Need Network Summary Report, 2007, p 6

allocated resources to areas which were not considered before in the national budget such as the resettlement of street children, Child Development and Coordination Program, Juvenile Justice and Child Welfare Program, mainstreaming of children's rights, under the Child Affairs' Department in 2005, sensitization programme on children's rights and Rehabilitation of Disadvantaged Children, Adults and Youth, the lack of disaggregated data makes it difficult to plan adequately and to monitor whether the funds actually benefit the intended target. The budget lines have suffered fluctuations in allocations, which defeats the purpose of progressive realization of rights.

**Recommendations:**

- **Government must put in place data collection mechanisms that are comprehensive, with indicators that can be used to measure implementation of the UNCRC.**
- **Government should be consistent in the amount of funding allocations to children's programmes. If it can not increase funding it should at least maintain the same allocation**
- **Government should narrow the funding gap between authorized expenditure and the actual expenditure.**

**f. Training and Dissemination :** Apart from the Ministry of Education mainstreaming the teaching of human rights and specifically children's rights in the high school Civic Education curriculum there is still no deliberate effort by government to undertake systematic awareness training of professional groups, children, parents and the general public on the Convention and the rights-based approach. The Convention remains insufficiently disseminated at the local level. Efforts in the training of human rights have largely been left in the hands of civil society.

**Recommendation:**

- **The government should have a deliberate policy in place to systematically train and disseminate the provisions of the UNCRC especially at local level.**

**2. General Principles**

**a. Respect for the views of the child:** The government has no deliberate policy to promote the principle of respecting the views of the child. This is mainly a civil society effort.

**Recommendation:**

- 3. Government needs to develop clear guidelines for mainstreaming child participation at all levels of programming and needs to ensure that such structures as the National Youth Council and Children's Council (once established) are used effectively for this purpose.**

### *Civil Rights and Freedoms*

**a. Birth Registration:** In Zambia many children are not registered at birth. The birth registration rate is 9% of children between 0-5 years. ‘Without registration there are no official records of the children’s existence thereby making them forfeit protection and enjoyment of rights that the state is obliged to provide including the right to immunization and education. In the absence of children’s birth data, the government finds it difficult to plan and monitor national policies and programmes for children.’<sup>3</sup>

#### **Recommendation:**

- **Government must prioritise birth registration and must completely overhaul and decentralise the system of birth registration, particularly in rural areas. Pronouncements have been made to this effect, but not much is practically done to remedy the situation.**
- **Government’s commitment to registration and issuance of birth certificates must be concrete and visible in the institutional reforms, to provide for easy birth registration throughout the country.**

**b. Corporal Punishment:** There is still no act to prohibit corporal punishment in all settings. The removal of statutes providing for corporal punishment as a result of the **Banda Vs The People**, high court ruling (1999) has not been followed up with express prohibition of corporal punishment in all settings. As yet, there is no evidence of government’s efforts to reinforce public awareness on other non-violent forms of disciplining children.

#### **Recommendations:**

- **The Government of Zambia should expressly prohibit all forms of corporal, physical and humiliating punishment of children in all settings.**
- **The Government of Zambia should put in place a programme to reinforce public awareness on other non violent forms of discipline**

**c. Torture and ill-treatment:** There is no child sensitive mechanism for children to complain against law enforcement officers regarding ill-treatment during arrest, questioning and police custody and to make sure that perpetrators are brought to justice. In Zambia Torture is not defined. Joint efforts between government and civil society through the Child Justice Forum initiative are being made to train police officers in issues of children’s rights and juvenile justice in particular. However, this initiative is donor driven.

#### **Recommendation:**

- **The government should define ‘torture’ in the Constitution and include it in the Penal Code, Cap 87 of the Laws of Zambia.**

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<sup>3</sup> National Child Policy, Ministry of Sport, Youth and Child Development, Zambia, 2006, page 24

#### **4. *Family Environment***

**a. Violence, including abuse, neglect, and maltreatment:** The setting up of the Victim Support Unit in police stations has made it easier for people to report cases especially in Lusaka. There are efforts being made to undertake studies on domestic violence, ill treatment and abuse, including sexual abuse within the family, in order to adopt comprehensive policies, which will help to change attitudes and improve the prevention and treatment of cases of violence against children. For example, The Sexual Behavior Studies by Central Statistics Office.

##### **Recommendations:**

- **Government should work with civil society in drawing up comprehensive indicators needed to collect the relevant data that can be useful in identifying the right interventions.**
- **There is need to develop systems that will provide support to the child and the family especially in instances when the breadwinner in the family is the perpetrator and faces a stiff custodial sentence.**

#### **5. *Basic Health and Welfare***

**a. HIV/AIDS:** There is active government involvement in programmes such as Prevention of Mother to Child Transmission of HIV/AIDS (PMTCT). There is however no counseling services specifically for children who are infected or affected by HIV/AIDS. The test, which enables the HIV status of a child to be determined right after birth, is only available in Lusaka.

##### **Recommendations: The government should:-**

- **Scale up testing for HIV status after birth to other parts of the country**
- **Train counselors specifically for children to ensure child-friendly services that assure confidentiality and professionalism in dealing with children's HIV/AIDS issues without discrimination or being judgmental.**
- **Government must introduce a certification system that prohibits uncertified individuals to provide counseling services to children in order to reduce any further or potential damage to children as a result of poor counseling offered.**

**b. Children with Disabilities:** The Ministry of Sport, Youth and Child Development has begun to work with civil society in including children with special needs in their programmes. For example, in 2007 the ministry supported children with disabilities to attend the Special Olympics games in China. There is no comprehensive policy for children with disabilities although there is a general National Policy on Disability.

##### **Recommendation:**

- **The government should take deliberate measures including legislative, financial, and institutional to sufficiently provide for the needs of children with disabilities.**
- **The government must adopt and provide an integrated and well-coordinated response for disability prevention and disability management for children, especially in rural areas.**

## **6. *Special Protection Measures***

**a. Street Children:** The 1996 Situation Analysis of Children in Zambia and the 2004 OVC Situational Analysis described a worsening situation and estimated the ‘population of street children to have increased rapidly to 75,000 since the first Situation Analysis undertaken in 1991.’<sup>4</sup> A *Profile of Street Children in Zambia* undertaken by the Ministry of Community development and Social services in 2006 revealed that ‘in spite of many government commitments to serving the Zambian child, the street child has been technically left out of the National Child Policy because apart from looking at OVC in general, the policy does not provide any targeted consideration for the special situation of street children ..... This has adversely affected implementation and enforcement of street children-specific interventions, even by those institutions trying to respond directly to this problem.’<sup>5</sup>

### **Recommendations:**

- **Government must widely publicise social welfare schemes available to support vulnerable children and must ensure that sufficient funds allocated to such programmes are disbursed and benefit the right people.**
- **Government must scale up the skills training camps and the youth resource centres established under the Ministry of Sport, Youth and Child Development and must clearly articulate programmes for community reintegration (of former street children) and empowerment of families and guardians of rehabilitated street children.**
- **Government must strengthen the social welfare departments across the country in order to provide consistent support and follow up of rehabilitated and reintegrated street children and other children at risk and their families/guardians.**

## **7. *Optional Protocols to the UNCRC***

Zambia has not ratified the two optional protocols to the Convention despite evidence of growing child sale and trafficking made worse by the poverty levels in the country.

### **Recommendation:**

- **The government should immediately ratify the two optional protocols to offer full protection of children in Zambia. The protocols will also be useful as the government revises child related legislation in line with international instruments.**

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<sup>4</sup> Muntigh, Lukas, et al, Report on Survey and Analysis of the Situation of Street Children in Zambia, September 2006, page 12

<sup>5</sup> Ibid, page 16

**References:**

1. *Children's Rights in Zambia, A Situational Analysis, (2005), Save the Children*
2. *Children's Right to Access HIV/AIDS Related Treatment and Services in Lusaka ZARAN, 2006.*
3. *Commercial Sexual Exploitation of Children (CESC) Survey Report 2006*
4. *Evaluation Report on Child Justice in Zambia, Lukas Muntingh, et. al. 2007*
5. *Educating Our Future, National Policy on Education, Zambia, 1996.*
6. *International Labour Organization (ILO), International Programme for the Elimination of Child Labour (IPEC).*
7. *Monitoring the implementation of children's rights in Zambia, (2007) The Children in Need Network.*
8. *Orphans and Vulnerable Children in Zambia, 2004 Situational Analysis, Zambia*
9. *United Nations Committee on the Rights of the Child (2003) Concluding Observations on Zambia*
10. *Zambia's Orphans and Vulnerable Children: What you should know, Harland, Charlotte (2004)*