

Children's Coalition - Joint UPR Submission – Zambia – October 2012



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Submitted on behalf of the following Child Rights Civil Society Organizations:

1. Advocacy for Juvenile Justice
2. African Network for Prevention and Protection against Child Abuse and Neglect (ANNPCAN)
3. Action Aid
4. Campaign for Female Education (CAMFED) ZAMBIA
5. Childcare and Adoption Society of Zambia
6. Child Fund
7. Children Centenary Zambia
8. Children International
9. Children In Need Network (CHIN)
10. Christian Information Network
11. Community Based Intervention Association (CBIA)
12. Forum For African Women Educationalist Zambia (FAWEZA)
13. Full Proof Mission
14. Girl Guides Association of Zambia
15. Justice for Widows and Orphans
16. Lifeline Zambia
17. Media Network for Child Rights and Development (MNCRD)
18. Plan Zambia
19. Regional Psycho-Social Support Initiative (REPSSI)
20. Room to Read
21. Rural Children's Hope
22. Save the Children
23. Sport in Action (SIA)
24. Women and Development in Southern Africa
25. World Vision Zambia (WVZ)
26. Youth Vision Zambia (YVZ)
27. Zambia AIDS Research Advocacy Network (ZARAN)
28. Zambia Civic Education Association (ZCEA)
29. Zambia Deaf Vision
30. Zambia Interfaith Networking Group ON HIV and AIDS (ZINGO)
31. Zambia National Education Coalition (ZANEC)
32. Zambia Open Community Schools (ZOCS)

CONSULTATION PROCESS

This submission has been prepared by a coalition of child focused organizations operating in Zambia in the areas of child rights, child protection, child justice, education and health. A total of thirty-two organizations working in rural and urban settings throughout Zambia participated in the consultation process; by providing input from their work with communities as well as research and advocacy activities at the national and international level following on the 2008 UPR recommendations.

Save the Children and Zambia Civic Education Association were selected to be lead organizations to collate the recommendations and coordinate the processes for the joint submission which included stakeholder meetings and sharing between January 2012 and April 2012.

During the consultation process, five (5) priority child rights issues affecting children in Zambia were identified:

1. Children's right to education
2. Children's access to justice
3. Children's right to participation
4. Child Protection - Violence Against Children
5. Children's right to health

This submission was prepared with broad consultation with over 100 children between the ages of 8 to 18 years from the 10 provinces of Zambia, who gave feedback made inputs to these final recommendations.

Their specific recommendations on education, the children implored the Government of Zambia to consistently follow the budget strictly and ensure increased and improved educational facilities and conditions of service for teachers. Under child protection, the children requested the Government of Zambia to enact policy frameworks that will stiffen punishment, improve on law enforcement for violators of children's rights.

Concerning child participation, the children stated that there is need for the Government of Zambia to involve children in decision making at all levels and ensure that policies guarantee child participation in all governance processes.

Under health, the children requested that the Government to build more hospitals renovate existing health infrastructures in rural areas and employ more qualified personal.

On their right to access to Justice, the children expressed a need for the government to improve the justice system that will ensure speedy and fair trials for children who come into conflict with the law.

COUNTRY CONTEXT

Zambia has an estimated population of 13.2 million of which more than 51% are aged 18 and below. The majority of the population lives on less than \$2 a day and 70% of the population lives below the poverty line. Zambia's gross domestic product (GDP) enjoyed consistent average growth of 4.88% between 2000 and 2007¹. However, although economic growth and per capita incomes have been rising, poverty has persisted in most sectors of the population, resulting in high levels of inequality. High levels of poverty create most of the threats to the survival and development of children². Zambia's coefficient of 0.508 is high compared to other countries classified as having low Human Development Index (HDI). Interestingly, Zambia has higher levels of inequality than most countries within the region, which have small-scale agricultural rather than mineral based economy³. The country ranks near the bottom of the Human Development Index; the Human Development Report for 2009 ranks Zambia at 180 out of 182 countries⁴.

Zambia signed and ratified the Convention on the Rights of the Child (CRC) in 1990 and 1991 respectively. Zambia has also ratified the following international human rights instruments relating to the protection of children; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; International Convention on Economic Social and Cultural Rights among others. However, Zambia has not ratified the Optional Protocol to the CRC on the involvement of children in armed conflict; Optional Protocol to the CRC of the Child on the sale of children, child prostitution and child pornography and the Optional Protocol to the Convention on the Rights of the Child on a communication procedure.

1. CHILDREN'S RIGHT TO EDUCATION

Zambia is among the many African countries that have failed to reach the mark of allocating 26% of the total National Budget allocation to the Education Sector or the 6 percent of Gross National Product, as per the Education for All (EFA) goals⁵. Resource allocation (financial, material and human) has been biased towards urban schools, leaving the rural institutions with huge challenges in the implementation of the national curriculums. Lacking qualified human resources, finances and educational materials, most of the rural schools have been having high failure rates in grade 7, 9 and 12 examinations, and high brain drain of the few existing qualified teachers. The situation is even worse for the community schools which operate from dilapidated or make-shift/substandard health hazard infrastructure with unqualified teachers.

According to the Education Statistical Bulletin, teachers' attrition rates (largely due to resignations, deaths and retirements) still remain high and amounted to 9,713 teachers at basic

¹ http://www.unicef.org/sitan/files/UNICEF_GRZ_Situation_Analysis_2008.pdf

² www.unicef.org/har08/files/har08_Zambia_countrychapter.

³ www.unicef.org/about/annualreport/files/Zambia_COAR_2010.pdf

⁴ http://www.unicef.org/sitan/files/UNICEF_GRZ_Situation_Analysis_2008.pdf

⁵ *Action Aid 2010*

school level and 1,736 teachers at high school level in 2009 alone⁶. This ultimately has led to the pupil-teacher ratios being unfavorable with figures as high as 1:50 in 2009. In addition, there are very few teachers who are trained in special needs and most of the trained teachers are deployed to urban schools meaning children with special needs in the rural areas do not have access to education. Added to this is the fact that there are even fewer special needs trained teachers at secondary and tertiary levels, which consequently results in children with special needs dropping out after basic education.

Most schools lack materials to cater for children with special needs such as the deaf and blind children. Sign language is not mainstreamed into the education system and therefore makes it difficult for deaf children to communicate and learn using materials for the able children. The same applies for blind children as Braille is hardly found in schools. The lack of appropriate and adequate learning materials consequently discriminates and prevents children from accessing quality education.

RECOMMENDATIONS

1. *With reference to the recommendations by the UN Committee on the Rights of the Child to the Government of Zambia in 2003 to increase resources for education to help children to go to school⁷, the Government of Zambia should improve infrastructure of rural schools by electrifying them, safe water reticulation and sanitation; reduce high teacher / pupil ratio to 1 teacher to 40 pupils for basic school learners and 1 teacher to 35 pupils for high school learners. The government should also improve learning materials / pupil ratio to 1 book to 1 pupil for both basic and high school pupils by 2013.*
2. *With reference to the recommendations by the UN Committee on the Rights of the Child to the Government of Zambia in 2003 to establish special education programmes for disabled children and include them in the regular school system to the extent possible⁸, the Government of Zambia/Ministry of Education should ensure that new school infrastructure takes into consideration physical accessibility of children with disabilities, built special units within mainstream schools to cater for children with disabilities and recruit more teachers qualified to teach children with special needs to ensure delivery of quality education for Children with Special Education Needs by 2014.*

2. CHILDREN'S ACCESS TO JUSTICE

Limited access to justice by children is one of the obstacles to the enjoyment of children's right in Zambia. Among the major issues affecting children's access to justice is: (i) lack of legal representation for children, (ii) ineffective Child Friendly Justice System, (iii) weak legal framework, and (iv) low age of criminal responsibility⁹. Currently, the system is considered

⁶ *Education Statistical Bulletin 2010*

ineffective because it does not always take into account the important guiding principles based on a number of important rules such as: child participation, best interest of the child, care and respect, equal treatment and the rule of law¹⁰.

There is inadequate legal representation for children both at the High and Subordinate Courts. This is a result of prosecutors not being specifically trained to handle cases involving children and the fact that the Directorate of Legal Aid Board under the Ministry of Justice is not decentralized to the Subordinate Court level. In addition, children as alleged offenders, victims and witnesses of crime and their parents/guardians do not have access to the right information before, during and after legal proceedings.

It is noted that: cases of children jointly charged with adults are not held in camera but in open court; child victims and witnesses of crime are not adequately prepared for court; and there is a bureaucratic procedure/management of the child friendly courts, where children wait in a queue.

While acknowledging that the Victim Support Unit (VSU) has presence in almost all the police stations around the country, it is worth noting that Child Protection Units (CPU) are only found at the provincial headquarters of 4 out of the 10 provinces in the country these being; Lusaka, Copperbelt, Eastern and Northern. While the VSU looks into the plight of all the vulnerable (both children and adults), the CPU has a specific mandate to deal with cases involving only children. However, where there is no CPU, the VSU takes up cases of children and this means that the cases of both adults and children are dealt with in the same environment and under the same conditions.

Despite international standards calling for special provision for children of incarcerated mothers and the legal provision that, subject to the commissioner's conditions, "the infant child of a woman prisoner may be received into the prison with its mother and may be supplied with clothing and necessaries at public expense," and may stay up until age four, there is no food at all allocated to the children under age four who live with their mothers in prison facilities; they are expected to share out of the portion of the mother¹¹. In situations where women are unable to breastfeed, the prison does not offer infant formula but depends on well wishers. The other very pressing issue is the wellbeing of children living with their mothers in prison who are kept under the same conditions with their mothers without facilities for them.

The minimum age of criminal responsibility in Zambia is 8 years. During the Child law review process it was recommended that the age be revised from 8 to 12 years.

RECOMMENDATIONS

⁹ *Evaluation Report on Child Justice in Zambia, Lukas Muntingh, et. al. 2007*

¹⁰ *Children's Rights in Zambia, A Situational Analysis, (2005), Save the Children.*

¹¹ *Prisca, ARASA and Human Rights watch, "Unjust and Unhealthy". April 2010, pages 80-81*

1. *The Government of Zambia should strengthen the juvenile justice system by increasing the existing specialized child friendly courts and by making detention and custodial sentences as last resorts for juveniles who come into conflict with the law. Diversionary and restorative justice measures should take precedence over a judicial process or custodial sentencing. Where detention or a custodial sentence is necessary government should reduce both pre and post trial detentions with specific shortest possible timeframes for both by January 2014.*
2. *Government should also consider increasing the minimum age of criminal responsibility from the current 8 years to the Committee on the Rights of the Child's recommended age of at least 12 years.*
3. *The Government of Zambia should prioritize the wellbeing of children found in prison with their mothers to provide proper beddings, proper nutrition, play facilities and put in place early childhood care and development programmes for such children by January 2014.*

3. CHILDREN'S RIGHT TO PARTICIPATION

Child participation is one pillar article of the CRC not being effectively dealt with in many countries including Zambia. Adults are usually not comfortable with the notion of children's participation, they see children as objects for support rather than as subjects with their own capacity to actively participate, believing that they should neither participate nor have opportunities to express their views. Adults themselves often have limited opportunities to participate and this also tends to influence their views on children's participation, and cause them not to fully understand what participation is and its value. Children's participation is also tied up with larger issues of governance, i.e. whether children are represented on councils or policy-making bodies.

The Ministry of Education's 1996 education policy - *Educating our Future* states that 'the philosophy of the Ministry of Education is that the education process centers on the pupil who has an active role to play in developing his or her intellectual and other qualities.¹²' The same concept permeates through the policy under all sections but notable under Decentralization, Equality and Equity, and Quality in the Philosophical Rationale and the Principles for the Development of Education. However, though the concept of child participation forms the underlying basis of the National Education Policy the concept is hardly appreciated by adults in the education system and even though children make up the larger percentage of any school community, they hardly have a voice or a platform on which their voices can be heard.

In Zambia cultural beliefs and practices are seen as playing a significant role in undermining child participation initiatives, nationally as well as locally. These beliefs and practices, with regard to who is deemed worthy of participating in the public sphere, as well as private sphere of society and/or the community, have seen children and women silenced. The belief that children have secondary status, and should adhere to the authority of parents and adults, has

¹² *Ministry of Education (1996), Educating our Future, National Policy on Education 1996*

permeated legal and political systems, as well as community and familial structures. This was also highlighted by the UN Committee on the Rights of the Child in its Concluding Observations to Zambia in 2003 where it expressed its concern that traditional practices and attitudes still limit the full implementation of Article 12 of the Convention on the Rights of the Child¹³.

Although Zambia has ratified both the CRC and the African Charter on the Rights and Welfare of the Child, the legal framework provides limited opportunity for any meaningful engagement from citizens generally, and specifically from children. There are multiple reasons for this, namely (i) the failure to promulgate national laws and policies governing children's rights that reflect international conventions that have been ratified; (ii) the failure to formulate clear plans of action for implementing laws and policies; (iii) the absence of mechanisms to enable citizens of any age to participate in public life. Government processes and structures are such that engagement from civil society is constrained or not possible. There are inadequate mechanisms to hold government officials who are under-performing (i.e. inefficient spending on fulfillment of children's rights) accountable¹⁴.

RECOMMENDATIONS

- 1. The Government of Zambia should encourage participation by children at all levels of school life, and make children's school councils mandatory organs in schools' governance structures to allow children to exercise their rights to choose their own representative as a process of learning democratic principles and influence governance by 2013.*
- 2. The Government of Zambia should fully roll out its Decentralization Policy to devolve real decision making powers to existing community based structures such as Resident / Ward Development Committees which platforms are easier for children to access in order for them to express their views in matters concerning them at local level.*
- 3. The Government of Zambia should finalize the child law review that is aimed at ensuring that all child related legislation aligns with the provisions of the UNCRC so that the legal framework provides for the participation of children supported by deliberate sensitization measures to encourage children to participate in issues affecting them by 2012*

4. CHILD PROTECTION

Child protection is a major concern at various levels of Zambian society. At national level, the laws of Zambia and national policies such as the National Child Policy and National Child Labour Policy are some of the instruments that seek to promote the rights of children. Violation of children's rights is a major concern in Zambia and among the forms of violence includes

¹³ CRC/C/15/Add. 2066, paragraph 26

¹⁴ *Regional Study on Children's Participation in Southern Africa: South Africa, Swaziland and Zambia* © Save the Children Sweden Research Undertaken by iMEDIATE Development Communications In association with ON PAR Development March 2010

defilement, commercial sex exploitation, early marriages, child labour, trafficking, and neglect—particularly of orphaned children¹⁵.

At community level, traditional practices can have both positive and negative effects. With regards to positive effects, the extended family is a form of sustainable community based child protection mechanism. However, there are also harmful practices such as early marriages, coming-of-age rituals and usage of children in cleansing rituals. In many communities, marrying off girls in exchange for livestock and other goods is still not viewed as sexual exploitation. Within communities, the Worst Forms of Child Labour is a common form of child rights violation. According to the Child Labour Survey of 2005 by Central Statistics Office (CSO), the number of working children was estimated at 1,252,532, which is more than double the number of working children reported in the Child Labour Survey. The number of reported children working between 5 and 17 years was 595,033¹⁶.

There are a number of factors affecting the development of an effective national child protection system in spite of international instruments and national Statutes and policies in Zambia. These include the fact that national child protection mechanisms have not been developed sufficiently to respond to child protection concerns. Some of the challenges are:

1. National leaders are not adequately visible¹⁷ in the child protection arena to lead the campaign aimed at preventing and addressing violence against children.
2. Girl children still suffer sexual abuse at the hands of male teachers despite the existence of the code of conduct in learning environments.
3. Limited interaction between law enforcement agencies and communities resulting in community members remaining largely unaware of child protection legislation and referral pathways.
4. Despite the law enforcement agencies being aware of inherent and emerging cultural practices that are harmful to children, they are not enforcing the law.
5. The child protection system is not well coordinated amongst national government agencies such as relevant ministries and departments responsible for the welfare of children and other state actions towards issues of children. As a result, there are a lot of pieces of legislation confined to different ministries, making policy implementation uncoordinated and to some extent duplicated in terms of resource allocation.

Incidences of child sexual abuse commonly occur in home environments, schools and in communities. In 2007, 2008 and 2009, between 1,500 and 2,000 cases of child sexual abuse were reported annually by the Zambia Police Service¹⁸.

Due to the continued violence against children expressed worry at the very high likelihood of becoming victims of sexual violence if not in their homes then in the community or schools

¹⁵ *Constitution of Zambia, Chapter 1 of the Laws of Zambia, Juveniles Justice Act, Cap 53*

¹⁶ *The National Child Labour Policy 2010; p.6*

¹⁷ *Public statements, pronouncements among others*

¹⁸ *Save the Children, 2010; p.7*

because, perpetrators of violence against children are people within the aforesaid environments¹⁹.

Other concerns by children included not being able to seek legal protection for themselves or their friends on account of not having information on what to do or where to go and lack of Police Stations in their localities complicated the situation. In addition, children felt let down by traditional structures and families, school authorities and government for failing to create inclusive environments fit for them especially protecting them from predatory members of their families, teachers and community members²⁰.

RECOMMENDATIONS

1. *The Government of Zambia should implement the recommendations from the UN Study on Violence against Children of 2006. Specifically the government should:*
 - *Prohibit all violence against children in all setting especially corporal punishment*
 - *Prioritize prevention of violence against children*
 - *Promote non-violent values and awareness-raising*
 - *Enhance the capacity of all who work with and for children*
 - *Ensure participation of children*
2. *The Government of Zambia should consider adopting the community based child protection model being implemented in Northern Province by the African Network for the Protection and Prevention of Child Abuse and Neglect (ANPPCAN.)*

5. CHILDREN'S RIGHT TO HEALTH

The Zambian government regards maternal and child health as a public health priority. And as such in line with the millennium development goals has set the goal of reducing maternal and child mortality from 591 maternal deaths per 100,000 live births to 162 deaths per 100,000 live births by 2015. The child mortality will be reduced from 119 deaths per 1000 live births to 63 per 1000 live births. Zambia's health expenditure per capita is US\$ 10.69²¹. UNFPA reports that between US \$30 to \$40 is estimated as the minimum per capita expenditure figure required for essential health interventions in low-income countries including Zambia Health expenditure²²

The health care budget was reduced from 11.8% of the total country budget allocation in 2009 to 9.3% in 2012. For example, in the 2010 budget, there was no specific allocation to the child health budget line, and issues of child health were integrated in adult health services. By implication child health suffered from this budget reduction in the entire Ministry of Health.

¹⁹ World Vision, VAC consultation report 2012

²⁰ ANPPCAN Zambia 2012, report on child protection

²¹ <http://www.unfpa.org/profile/zambia>

²² Tradingeconomics.com. health expenditure for Zambia

In 2011, during a session of the Pan African parliament, the Zambia government committed to: (i) increase national budgetary expenditure on health from 11% to 15% by 2015 with a focus on women's and children's health; (ii) strengthen access to health for all, scale up implementation of integrated community case management of common disease for women and children and to bring health services closer to families and communities to ensure prompt care and treatment.

Chronic under-nutrition (stunting) remains a fundamental threat to the sustainable economic development of Zambia and rates are among the highest in the world. In addition, vitamin A and iron deficiency anemia affects over half of all Zambian children. More than one in 10 babies are born with low birth weight indicating poor maternal nutrition²³. Nevertheless, despite high and persistent levels of chronic malnutrition and seasonal needs for supplementary feeding in certain parts of the country, nutrition has received little attention in recent years.

One of the challenges contributing to high levels of malnutrition is the lack of human resources to provide food and nutrition services at community level. The rural areas more affected than the urban. For instance a nutrition course at the National Resources Development College (NRDC) was introduced to produce nutritionists these are later absorbed in the Zambian hospitals to work in the children's wards and also advise mothers on good nutritional practices. However, gaps still abound as the services of these nutritionists are remain in hospitals and clinics in urban areas than in rural health centers (RHC) and this has created an urban bias.

RECOMMENDATIONS

- 1. The Government of Zambia should scale up resource allocation to health to achieve the minimum commitment of 15% by 2015 endorsed by Africa leaders in Abuja with 4% of the 15% allocated to maternal health and 5% allocated to newborn and child health.*
- 2. The Government of Zambia should take all appropriate measures to ensure access to nutritionists in rural health centres, by training 6,000 Community health workers (CHWs) in basic nutrition 2015.*

²³ 2007 Zambia Demographic Health Survey