

I Introduction

1. Edmund Rice International (ERI) is an international non-governmental organization, founded in 2005 and with Special Consultative Status with ECOSOC since 2012. ERI is supported by two Catholic Religious Congregations, the Christian Brothers and the Presentation Brothers. It works with networks of like-minded organizations and in the countries where the two congregations are present. ERI has a special interest in the rights of the child, the right to education and in eco-justice.

2. The Edmund Rice Justice Desk of South Central Africa was established in 2013. Based in Cape Town, South Africa, it operates within South Africa, Zambia, and Zimbabwe. The purpose of our organisation is to advocate, provide training, instil education, raise awareness, and bridge the causeways of human rights and justice. We belong to a global network of human rights defenders and constitute part of the wider Edmund Rice network. Our parent organisation is Edmund Rice International – an ECOSOC advisor to the United Nations, which is based in Geneva and in New York.

II Methodology

3. Teachers from a range of schools in Zambia were consulted for first-hand accounts and primary research-based insight into ongoing human rights development programmes and initiatives.

4. Legal legislature was consulted as a frame of reference for discussion, analysis, and subsequent recommendations.

5. Official national strategies were consulted in order to interpret the government's plans for meeting progressing constitutional commitments.

III General Education

(a) Situational Analysis

6. While the Zambian government has made steps to improve equity and access to education, accessibility remains a significant problem for ordinary citizens. According to research, of the estimated 900,000 people in Zambia's Western Province, only 45 percent of them had access education.¹ The problem of accessibility can be framed as a two-fold problem: It is limited both by (1) a lack of infrastructure, and (2) by adequate skills-training among teachers.

7. The Zambian government allocates 20 percent of its national budget towards the education sector. The expansion of primary and secondary education infrastructure are key initiatives, but with 68 percent of the budgetary allocation being absorbed by fees and salaries, less than a third of the budget remains available for growth and development.² Demographic issues also pose a problem. High-density areas are restricted by a limited number of school placings, while low-density areas often require young children to travel large distances to reach their school. Nevertheless, the government has set the target of hiring 5,000 teachers annually to

¹ Munyua, Samuel. (2017). Context of the Western Cluster of Zambia (Draft).

² UNESCO (2015): Education for All: 2015 National Review. Available at

<http://unesdoc.unesco.org/images/0023/002315/231573e.pdf> >Last accessed on March 29th 2017.

meet demand.³ The government is also expected to complete its goal of constructing 118 new schools in 2017.

8. Zambia is currently stricken by low learning achievement scores, indicative of a poor quality of education in schools. While UNICEF has offered professional training to teachers in rural areas and Zambian teachers have been included in the UNESCO BEAR training project, the extent of the progress was limited.⁴ However, in 2015 the government acknowledged the problem and committed to prioritising an improvement in the education system. This would incorporate a two-tier education system which offers improved academic and skills education.⁵

9. In 2013 the government outlined its plan for remodelling its approach to physical education in schools, especially for girls who had limited accessibility to physical education. By revamping physical education, it was hoped the new programme would fill gaps in the previous curriculum, thereby promoting equity.

10. A high proportion of dropouts in Zambian schools can be attributed to pregnancy. According to 2012 research, 12,753 girls left school on account of pregnancy, with just 38.5 percent of those returning to complete their schooling.⁶ Additional research suggests the vulnerability of young girls makes them particularly susceptible to pregnancies from a young age. Key factors include a lack of knowledge relating to sexual and reproductive health, and low condom use.⁷

(b) Legal Framework

11. The Legal Education Act 2011 regulates education in Zambia and is informed by the Convention of the Rights of the Child (CRC), which ensures domesticated law is consistent with international law as defined by the United Nations Human Rights Treaty, of which Zambia is a signatory.

12. As stated in Article 28 of the CRC, State Parties are obliged to recognise a child's right to education. Basic education refers to education from early childhood until grade nine.

13. The government is constitutionally committed to make basic and vocational education progressively available to all persons. Hereby, the government is required to take steps which ensure the greater availability and greater accessibility of basic and vocational education programmes.

14. A child has a right to free basic education. This includes children identified as poor or vulnerable by the state. In this respect, children's right to education is protected even if a

³ Ibid.

⁴ UNESCO (2015): Better Education for Africa's Rise. Available at <http://unesdoc.unesco.org/images/0022/002287/228753E.pdf> >Last accessed on March 29th 2017.

⁵ Ibid.

⁶ Munyua, Samuel. (2017). Context of the Western Cluster of Zambia (Draft).

⁷ Restless Development (2014): Teenage Pregnancy in Zambia. Available at <http://restlessdevelopment.org/file/submission-to-the-parliamentary-national-assembly-of-zambia-090114-pdf> >Last accessed on March 29th 2017.

guardian is incapable of or has failed to meet fees, or provide the child with articles of clothing or other basic necessities.

15. According to Article 31 of the Education Act, education boards and management are obligated to promote equity in education. This includes the promotion of equal opportunity and equal participation in all levels of education irrespective of gender, including gender-sensitive teaching and methodologies. Gender is defined in the constitution as the status of male or female and the role individuals in society play as result of their sex and status.

16. We recommend that the government of Zambia:

- 1. Ensure the completion of its school development project before turning attention towards improving the quality of the education it provides.**
- 2. Wherever possible, promote boarding school programmes to ensure education is possible for children from isolated communities.**
- 3. Step-up efforts to coordinate with UN education drives and look to incorporate UNESCO training into government training policies on a nationwide scale, thereby ensuring a high quality in education training.**
- 4. Place greater emphasis on the relevance of sex education at schools to ensure children understand their sexual and reproductive health.**
- 5. Press ahead with more gender sensitive physical education programmes to promote equity.**

IV Protection for the Rights of the Vulnerable

a) Situational Analysis

17. The Zambia Demographic and Health Survey conducted in 2013-14 revealed that Zambia's child marriage prevalence is among the highest rates in the world, with girls disproportionately affected. Nevertheless, the practice has shown signs of diminishing in recent years according to statistics.⁸ In 2016 the Zambian government launched their National Strategy on Ending Child Marriage to combat the issue. The policy aims to have reduced the prevalence of child marriage by 40 percent by the year 2021, with the target of abolishing it completely by 2030.

18. Steps have also been taken to resolve contradictions in the Marriage Act, in which loopholes have enabled children's guardians to consent to marriage on their behalf. Laws which do not actively prevent the marriage of children have done little to discourage the practice, as according to the latest statistics, 41 percent of girls in Zambia marry before the age of eighteen, while 45 percent of women between the ages of 25 and 49 reported they had married prior to turning eighteen.⁹ Following the failure of the Children's Code referendum, however, the prohibition of child marriage was not incorporated into the constitution,

⁸ Munyua, Samuel. (2017). Context of the Western Cluster of Zambia (Appendix).

⁹ Ibid.

meaning the practice endures despite child marriage presenting with developmental and human rights obstructions.

19. Of Zambia's 15.5 million people, an estimated 2 million are differently-abled. Without specific legislation, the differently-abled community remains vulnerable. For example, according to census data, the proportion of the differently-abled who attended school stands at just 47.6 percent.¹⁰ Nevertheless, non-specific legislation has made gains; the government has committed to eliminating environmental, transportation, and communication technology-related obstacles, as well as introduced Disabled Persons Organisations and inspectors for evaluating accessibility.

20. While Zambia's national policies are committed to universal access for all - no specific legislation is directed towards the protection of the rights of people detained within correctional facilities. In Zambia, where fostering is uncommon even among children whose parents are imprisoned, children are frequently raised within the confines of a prison. While foundations such as the Mother of Millions Foundation, among others, have sought to humanise prisons and provide access to education and healthcare, the Zambian government has failed to take a more active role.¹¹

21. While the outcomes of the Global Action Program on Child Labour Issues are yet to be analysed, data collected by the United States Bureau of International Labour Affairs concludes that although the government has taken steps to eliminate the worst forms of child labour, shortcomings in the current legal framework mean Zambian children continue to be vulnerable to some of the worst forms of child labour, including tobacco production and commercial sexual exploitation.¹² At present, NGOs are the chief instigators of awareness programmes, while the government has taken some steps to conduct worksite inspections and uphold the rule of law.

(b) Legal Framework

22. The Zambian constitution is informed by the Convention of the Rights of the Child (CRC), which ensures domesticated law is consistent with international law as defined by the United Nations Human Rights Treaty, of which Zambia is a signatory.

23. In accordance with Article 1 of the CRC, a child is defined in the Zambian constitution as a person who is younger than the age of eighteen years.

24. At present, there is no constitutional legislation in Zambia which outright prohibits child marriage. As such, laws whereby adults can consent to marriage on behalf of their children under the age of twenty-one, persist.

¹⁰ Munyua, Samuel. (2017). Context of the Western Cluster of Zambia (Draft).

¹¹ Mother of Millions Foundation Website. Available at <http://www.motherofmillionsfoundation.org/> >Last accessed on March 27th 2017.

¹² Child Labor and Forced Labor Reports: Zambia (2015).

25. There is no specific legislation in Zambia attending to the specific needs of the differently-abled, despite the government's commitment to the promotion of equity and non-discrimination. In its Sixth National Development Plan, however, the government committed to increasing its special-needs support spending and infrastructure development. Differently-abled persons, referred to as persons with a disability, are defined by the constitution as people with permanent physical, mental, intellectual, or sensory impairment.

26. Although a Correctional Service Commission exists in accordance with Article 193 of the constitution, no specific reference is made to integrating detainees' access to their rights.

27. Contrary to the CRC, Article 4 of The Employment of Young Persons and Children's Act states that no person under the age of sixteen is permitted to be employed in an industrial undertaking in Zambia unless that undertaking includes members of the same family, or (a) that young person is contracted under the terms of the Apprenticeship Act, or (b) possesses of a certificate of employment from the Labour Office. A young person is defined as a person between the ages of fourteen and eighteen.

28. We recommend that the government of Zambia:-

1. Continue to improve the accessibility of rights for the differently-abled in society, but go beyond by introducing proactive measures to combat the stigma associated with being differently-abled in everyday society.

2. Do more to raise awareness concerning the drawbacks of child marriage and thereby instil a greater recognition of the importance of its prohibition for the defence of essential human rights. In addition, taking tougher legal action against offenders is likely to further disincentives for the practice.

3. Initiate the modification of the Marriage Act with respect to the patriarchal preference of the written word of the father over that of the mother in the case of consenting to marriage on behalf of parties below the age of twenty-one.

4. Take the necessary measures to revive the Children's Code referendum in the coming years and make a second attempt to constitutionally outlaw marriage prior to the age of eighteen, under any circumstances.

5. Become more active in funding or initiating actions that cater towards the establishment of equal access to human rights for incarcerated persons and their children.

6. Initiate the modification of The Employment of Young Persons and Children's Act in accordance with the terms of CRC with the aim of overcoming loopholes in legislation that enable child labour.

7. Allocate increased resources to the protection of children from child labour and to more to facilitate support for awareness raising programmes.

V Birth Registration

(a) Situational Analysis

29. It is compulsory for the births of all children to be registered in Zambia. The failure to do so results in a significant fine and possible imprisonment for a period not exceeding one month.¹³ Birth registration is a key area of concern for the state given that a failure to register a child deprives it of its basic right to a nationality. Subsequently, the failure to register a child bereaves it of the privileges it would be guaranteed as a citizen of the state.

30. According to 2013-14 survey data only 11 percent of children between the age of birth and four years have been registered with the civil authority. Registration figures are also significantly higher in urban areas (20 percent) than rural areas (7 percent).¹⁴ This suggests that the accessibility of registration centres remains a central issue to be overcome.

31. Birth registration is free in Zambia provided it takes place within one month of the notification of birth. Late registration, however, may be subject to a fee. Given this fee presents as a disincentive for registering the unregistered, it is likely the existence of this fee poses an obstacle to improved registration figures.¹⁵

32. According to a UNICEF report carried out in 2015 there are steps being taken to decentralise the birth registration system. With 66 percent of people living in rural areas¹⁶, the previously centralised nature of the system had been touted as a key failure in promoting the accessibility of the registration system among the wider community.¹⁷

(b) Legal Framework

33. The Zambian constitution is informed by the Convention of the Rights of the Child (CRC), which ensures domesticated law is consistent with international law as defined by the United Nations Human Rights Treaty, of which Zambia is a signatory.

34. As stated in Article 7 of the CRC, a child is to be registered immediately following its birth and from birth it attains the right to a nationality.

35. As determined by the constitution in accordance with the CRC, citizenship may be acquired by birth, decent, registration, or adoption. Thereby, a person born in Zambia is a citizen by birth if at least one parent is a citizen.

36. As outlined in the constitution, a citizen is entitled to (a) the rights, privileges and benefits of citizenship and (b) an identity document, to be issued by the state.

37. In accordance with subsection one of Article 21 of the Births and Deaths Registration Act; a fee may be enforced for the provision of the act. As certified by subsection one of Article 43 of the constitution, no fee can be charged for the registration of a birth within one month of the notice of the prescribed particulars of the birth.

38. We recommend that the government of Zambia:

¹³ Chapter 51: The Births and Deaths Registration Act (1973).

¹⁴ Demographic and Health Survey 2013-14 (2014).

¹⁵ Chapter 51 The Births and Deaths Registration Act (2006).

¹⁶ Malnutrition in Zambia (2016).

¹⁷ UNICEF Annual Report (2015).

- 1. Introduce a ‘national registration day’ to be held annually. This registration day could help raise awareness of the problems associated with a failure to register and indeed promote a wider awareness of essential human rights.**
- 2. Further incentivise birth registration by introducing a redeemable reward sponsored by the government or independent organisations.**
- 3. Incentivise the registration of previously unregistered persons by allowing for waivers of the late registration fee on the specified ‘registration day’. This would hereby promote wider participation in the act of registration and contribute to a shift in culture.**
- 4. Continue a policy of decentralisation in order to make birth registration more accessible and more efficient at a community level, particularly in rural areas.**

VI Implementation of UPR Recommendations

39. In order to more effectively implement the recommendations accepted as part of its UPR we recommend that the Government of Zambia:-

- 1. ensure the effective implementation of UPR recommendations through the establishment, by the time of a mid-term assessment of the current UPR cycle, of a permanent governmental mechanism to liaise with relevant ministries and consult with Civil Society, NHRI’s and all relevant stakeholders.**