



# Global Monitoring

status of action against commercial sexual exploitation of children

## ZAMBIA



2<sup>nd</sup> EDITION

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# GLOSSARY OF TERMS AND ACRONYMS

- **AIDS:** Acquired Immune Deficiency Syndrome
- **CASECIT:** Campaign Against Sexual Exploitation of Children and Youth in Tourism
- **CCRG:** Community Child Rights Group
- **CEACR:** Committee of Experts on the Application of Conventions and Recommendations
- **CHIN:** Children in Need Network
- **CLU:** Child Labour Unit
- **COP:** Child Online Protection
- **CPU:** Child Protection Unit
- **CRC:** Convention on the Rights of the Child
- **CSEC:** Commercial Sexual Exploitation of Children
- **DCLC:** District Child Labour Committees
- **DCPC:** District Childcare and Protection Committees
- **EFA:** Education for All
- **EYPC:** Employment of Young Persons and Children Act
- **FNDP:** Fifth National Development Plan
- **HIV:** Human Immunodeficiency Virus
- **ICT:** Information and Communication Technology
- **ILO:** International Labour Organization
- **IOM:** International Organization for Migration
- **IPEC:** International Programme on the Elimination of Child Labour
- **ISP:** Internet Service Provider
- **ITU:** International Telecommunications Union
- **MCDMCH:** Ministry of Community Development, Mother and Child Health
- **MCDSS:** Ministry of Community Development and Social Services
- **MGCD:** Ministry of Gender and Child Development
- **MHA:** Ministry of Home Affairs
- **MLSS:** Ministry of Labour and Social Security
- **MNCRD:** Media Network on Child Rights and Development

- **MSYCD:** Ministry of Sport, Youth and Child Development
- **NAP:** National Action Plan
- **NCP:** National Child Policy
- **NGO:** Non-Governmental Organisation
- **NPA:** National Plan of Action
- **OPSC:** Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography
- **OVC:** Orphans and Other Vulnerable Children
- **SNDP:** Sixth National Development Plan
- **TBP:** Time Bound Programme
- **TIP:** Trafficking in Persons
- **UN:** United Nations
- **UNDP:** United Nations Development Programme
- **UNICEF:** United Nations Children's Fund
- **UNJPHT:** UN Joint Programme on Human Trafficking
- **UNWTO:** United Nations World Tourism Organisation
- **VSU:** Victims Support Unit
- **ZPS:** Zambia Police Service
- **ZICTA:** Zambia Information and Communication Technology Authority

# FOREWORD

At the First World Congress against Commercial Sexual Exploitation of Children (CSEC) held in Stockholm in 1996, governments from around the world first gave recognition that commercial sexual exploitation of children is a global crime of epidemic proportions. The Stockholm Declaration and Agenda for Action - a strategic framework for actions against CSEC - was adopted by the 122 governments participating in the Congress in order to guide a systematic global response against the sexual exploitation of children.

The outcome document of the First World Congress was soon followed by the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OPSC). Adopted in 2000 as a legally binding treaty of the United Nations, the Optional Protocol (and other relevant international treaties) reaffirms the urgent need for political will and concrete actions from governments to ensure that children in their countries can live free from all forms of commercial sexual exploitation.

In 2001, high-level delegates from 136 governments, local and international non-governmental organisations and children and young people, convened in Yokohama for the Second World Congress to review the achievements and challenges in combating CSEC as well as to identify new priorities needed to bolster and enhance action. Seven years later, the World Congress III in Rio de

Janeiro provided the largest global platform to date for delegates from 137 governments to renew their state's commitment to protect children from commercial sexual exploitation. The Rio Declaration and Call for Action strongly urges all stakeholders, including the private sector, to continue their due diligence in taking the necessary follow-up actions to eliminate CSEC. The Rio Call for Action emphasises the obligation to uphold the rights of the child as identified in existing international human rights and child rights instruments. It also offers a framework for the accountability of all duty-bearers of children's rights, particularly governments, in the fight against sexual exploitation of children and re-affirms the continuing relevance of the Agenda for Action, first agreed to in Stockholm twelve years earlier.

This report, as part of the Second Edition series of country monitoring reports produced by ECPAT International, provides a comprehensive baseline of information on all manifestations of CSEC in the country and an assessment of achievements and challenges in implementing counteractions (including the participation of children and young people themselves) to eliminate CSEC. The report, which follows the framework of the Stockholm Agenda for Action, serves as an instrument for the sharing of information and experiences among various stakeholders and duty-bearers within the country as well as internationally. It also suggests concrete priority actions urgently needed to proactively advance the national fight against

CSEC. Furthermore, this report enables the monitoring of the implementation of international instruments on child rights, related to commercial sexual exploitation that have been ratified by the concerned state.

The production of this report is achieved through extensive collaboration within the ECPAT global network. ECPAT International would like to thank ECPAT member groups in the countries assessed, local and global experts and other organisations

for their invaluable inputs to this report. ECPAT International would also like to express its profound appreciation of all the hard work of its dedicated team from within the Secretariat and for the generous support of its donors that helped make the finalisation of this report possible. The contributions of all involved have greatly strengthened the monitoring of the Agenda for Action and the heightened collaboration needed to fight the new and evolving complex manifestations of commercial sexual exploitation of children.

# METHODOLOGY

The Agenda for Action against Commercial Sexual Exploitation of Children provides a detailed framework and categories of actions to be taken by governments in partnership with civil society organizations and other relevant actors for combating commercial sexual crimes against children. Broadly, these actions are focused on: 1) Coordination and Cooperation; 2) Prevention; 3) Protection; 4) Recovery, Rehabilitation and Reintegration; and 5) Child Participation. The Agenda for Action is thus the formal and guiding structure used by governments that have adopted it and committed to work against CSEC. As such, the Agenda for Action is also the main organising framework for reporting on the status of implementation of the Agenda as seen in the World Congress II of 2001, the Mid-Term Review meetings held between 2004 and 2005 and the World Congress III in 2008. It has been used in the same way to structure and guide the research, analysis and preparation of information presented in these reports on the status of implementation of the Agenda in the individual countries.

Preparatory work for this 2<sup>nd</sup> Edition report involved a review of the literature available on sexual exploitation for each of the countries where ECPAT works. A number of tools were prepared, such as a detailed glossary of CSEC terms, explanatory literature on more difficult themes and concepts and a guide to relevant CSEC-related research tools, to assist researchers in their work and to ensure consistency in the gathering, interpreting and analysing of information from different sources and parts of the world.

Desktop research has shown a continuing lack of information in the areas of Recovery, Rehabilitation and Reintegration. After extensive efforts to collect information relevant to these areas for each of the countries covered, it was decided that as this information was not consistently available, the reports thus focus only on those areas of the Agenda for Action where verifiable information can be obtained. Thus, the report covers: Coordination and Cooperation; Prevention; Protection and Child and Youth Participation, and where information on recovery, rehabilitation and reintegration, was available, it has been included under the country overview. These 2<sup>nd</sup> Edition Reports also reflect a greater focus on integrated and inter-sector collaboration for the realisation of the right of the child to protection from sexual exploitation, including the need nationally for comprehensive child protection systems.

Research of secondary sources, including CRC country and alternative reports, OPSC country and alternative reports, the reports of the Special Rapporteurs, as well as research and field studies of ECPAT, governmental and non-governmental organizations, regional bodies and UN agencies, provided the initial information for each report. This information was compiled, reviewed and used to produce first draft reports. In-house and consultant specialists undertook a similar process of review to generate information on specialised areas of the reports, such as the legal sections. Nevertheless, researchers often encountered a lack of information. While sources also included unpublished reports and field and

case reports of ECPAT and other partners, many countries lacked up-to-date data and information on areas relevant to this report.

Despite these limitations, sufficient information was gathered to provide a broad overview of the situation in each country. Subsequently, first drafts were prepared and shared with ECPAT groups, which then supplemented the information with other local sources and analysis (taking care to identify them and source appropriately). Upon receipt of these inputs, a series of questions were generated by the ECPAT International team for deeper discussion, which involved ECPAT groups and specialists invited by them. The information from these discussions was used to finalise inputs to each of the reports. These consultations proved to be invaluable for analysis of the country situation. They also served as a measure for triangulating and validating information as different actors offered their perspective and analysis based on their direct work.

As previously noted, the information of each country report is organised to correspond to the structure of the Agenda for Action. Thus all the 2<sup>nd</sup> Edition reports feature updated information in relation to: (i) an overview of the main CSEC manifestations affecting the country; (ii) analysis of the country's National Plan of Action (NPA) against CSEC and its implementation (or the absence of an NPA); (iii) overview and analysis of coordination and cooperation efforts during the period under review; (iv) overview and analysis of prevention efforts; (v) overview and analysis of protection efforts, which includes detailed information on national legislation related to CSEC (see [www.ecpat.net](http://www.ecpat.net) for further details); (vi) overview and analysis of country's efforts incorporate participation of children in youth in the development and implementation of efforts to combat CSEC and (vii) priority actions required.

# ZAMBIA



## INTRODUCTION

The Republic of Zambia is a landlocked Sub-Saharan country that shares its borders with Malawi, Angola, Zimbabwe, Tanzania, Botswana, Mozambique, Democratic Republic of Congo and Namibia.<sup>1</sup> It has an estimated population of 13.2 million, over half of whom are 18 years old or younger.<sup>2</sup> The majority of the population live on less than \$2 a day and 70% of the population live below the poverty line.<sup>3</sup> Although in recent years Zambia has seen a notable rise in economic growth and per capita income, poverty has persisted throughout most of the country, resulting in high levels of inequality.<sup>4</sup> The country ranks near the bottom of the Human Development Index<sup>5</sup> and the United Nations Development Programme's (UNDP) Human Development Report for 2009 ranked Zambia 180 out of 182 countries.<sup>6</sup> The UNDP's most recent report for 2013 ranked Zambia 163 out of 186 countries on the Human Development Index.<sup>7</sup>

Zambia's high level of poverty creates a dangerous environment for children and puts their safety and development at great risk. Children make up almost half of the Zambian population living in extreme poverty and almost 20% of all children in Zambia are either orphans or have lost one parent.<sup>8</sup> The high rate of orphanhood and single parent households and families is primarily due to the HIV/AIDS epidemic.<sup>9</sup>

Zambia is divided into nine provinces; four largely urban and five predominantly rural.<sup>10</sup>

These provinces contain over 70 ethnic or tribal groups which adhere mainly to customary law in matters such as succession, rites of passage and marriage, among others.<sup>11</sup> This customary law consists of various traditional practices, still deemed acceptable in many local communities, such as the marrying off of girls in exchange for livestock and other goods or forms of child labour.<sup>12</sup> These traditional practices under customary law can also include the sexual exploitation of children. Among a group of Kunda speaking people in the Luangwa District, the cleansing of widows and widowers is done through sexual rituals with children.<sup>13</sup> Zambia's customary law also contradicts national legislation and both Zambia's customary and national laws conflict with international human rights instruments regarding children's rights.

According to United Nations Children's Fund (UNICEF), child abuse and exploitation is a continual problem in Zambia.<sup>14</sup> In 2012, reported rates of "defilement" of children below the age of 16 years increased, as did the number of girls who dropped out of school as a result of pregnancy.<sup>15</sup> According to a 2007 International Labour Organization (ILO) study on child trafficking in Zambia, the commercial sexual exploitation of children (CSEC) appeared to be widespread but was more prominent in areas such as Kapiri Mposhi, Chirundu and Nakonde.<sup>16</sup> This was attributed, in part, to the presence of truck drivers and businessmen in these areas.<sup>17</sup> Commercial sexual exploitation was cited

as the most common reason for the internal trafficking of female children and a reason for cross border trafficking as well.<sup>18</sup>

Following the 1996 Stockholm and the 2001 Yokohama global forums on CSEC, Zambia reaffirmed its commitments to ending CSEC at the World Congress III against the Sexual Exploitation of Children and Adolescents, in

November 2008 in Brazil. The World Congress III renewed global commitment and galvanised international resolve to combat sexual exploitation of children and adolescents. In total, more than 3000 people took part in the three-day gathering, including representatives from government, the private sector and civil society as well as 300 children and adolescents from around the world.

## Prostitution of children

One of the most common forms of CSEC in Zambia is child prostitution.<sup>19</sup> Child prostitution exists in most large cities and, according to several international organisations, constitutes the country's most serious trafficking problem.<sup>20</sup> According to a 2010 study on child prostitution, Zambia had 580 children involved in prostitution per 100,000 people, the second highest number among the 12 countries examined.<sup>21</sup>

In Zambia, many children are recruited into prostitution by women who were formerly prostitutes themselves.<sup>22</sup> In 2012, the Ministry of Community Development, Mother and Child Health (MCDMCH) referred 50 children involved in prostitution to an NGO for care.<sup>23</sup>

Under the *Zambian Penal Code*, there are a number of provisions for the protection of children or young persons from various forms of sexual exploitation, including prostitution.<sup>24</sup> The law criminalises the prostitution

of children and provides for penalties of up to life imprisonment for perpetrators.<sup>25</sup> In practice, however, these laws are not often enforced and, partly as a result, the prostitution of children is common.<sup>26</sup> In the past, when attempts to enforce the laws were made, many times it was the children who were criminalised, not the perpetrators.<sup>27</sup> For example, the law provided that children, 12 years old and above, involved in prostitution may be charged and prosecuted.<sup>28</sup>

It has been reported by Children In Need Network (CHIN),<sup>29</sup> the ECPAT group in Zambia, that Zambia police have made significant strides in the last few years. Generally if there is an arrest of a child, it is made as part of a roundup of all prostitutes. Once it is established that children have been arrested, special considerations are made. Usually these children will be taken to places where they will be cared for, such as the Tasintha Programme,<sup>30</sup> which assists children who have been sexually exploited.<sup>31</sup>

## Government response to prostitution

In 2012, Zambia's government responded to the problem of prostitution by promoting a "crack-down" on prostitutes by sentencing them to jail terms or fines in an attempt to remove them from the streets. This was also implemented as a way to reduce the spread of HIV/AIDS.<sup>32</sup> There is no evidence that efforts have been made by the government to reduce the *demand* for prostitution or what provisions, if any, the government has made for children found in these situations.

## Child trafficking for sexual purposes

Zambia is a source, transit and destination country for men, women, and children subjected to forced labour and trafficking for sexual purposes.<sup>33</sup> Most of Zambia's cross-border trafficking involves trafficking in young women and children for sexual exploitation.<sup>34</sup> The majority of trafficking occurs within the country's borders and involves women and children trafficked from rural areas to larger cities to work as domestic labourers,<sup>35</sup> sometimes by acquaintances or members of their extended family.<sup>36</sup> The children most vulnerable to this kind of trafficking are orphans and street children, as they often have no one to protect them. However,

children of wealthier families living in rural areas are also vulnerable to trafficking, due to the societal belief that sending children to the city for work will perceivably confer status.<sup>37</sup> Zambian trafficking victims have been identified in South Africa, the Democratic Republic of the Congo (DRC) and Namibia. It has also been reported that a number of Zambian boys are taken to Zimbabwe to be exploited through prostitution.<sup>38</sup> Zambia is also a destination country for migrants from Malawi, DRC, Zimbabwe and Mozambique, who are then exploited in forced labour or forced prostitution in Zambia.<sup>39</sup>

The US Department of State annually releases a *Trafficking in Persons Report* which categorises countries into different "tiers" based on the extent of government action to combat human trafficking. Countries that have the highest level of compliance with the *Trafficking Victims Protection Act's* minimum standards for the elimination of trafficking are placed in **Tier 1**. Those that have made "significant efforts" to meet the standards are placed in **Tier 2** and countries that are not making significant efforts to combat human trafficking are placed in **Tier 3**.

In the 2013 report, Zambia was placed in **Tier 2**.

According to a joint study by the International Programme on the Elimination of Child Labour (IPEC) and the ILO, released in 2007, on child trafficking in Zambia, the two most frequently cited motives for trafficking were the demand for cheap labour and commercial sexual exploitation.<sup>40</sup> It was determined from the research that the majority of child trafficking victims were Zambian, – the research noted higher numbers of internal trafficking than cross-border – predominantly female, and orphans and teenagers.<sup>41</sup> The study indicated that the main factors increasing a child's risk of being trafficked include poverty, orphanhood, cultural factors (early marriage and cultural acceptance of children being sent away to live with extended family members), lack of education and dysfunctional families.<sup>42</sup>

According to the 2012 Trafficking in Persons (TIP) Report, the Zambian government

increased its anti-trafficking budget, which included the first-ever allocation of trafficking-specific funding to the Zambia Police Service's Victims Support Unit (VSU).<sup>43</sup> In 2011, the VSU revised its intake forms to include trafficking as a reportable offense.<sup>44</sup> Despite these efforts, trafficking victims continue to face serious challenges in Zambia. It was reported in 2012 that, due to a continued shortage of adequate shelters, the government jailed trafficking victims alongside their traffickers for months at a time.<sup>45</sup>

According to the 2013 TIP Report, the Zambian government doubled its anti-trafficking budget to the equivalent of approximately \$72,000, tripled the number of labour inspectors, and convened a long-awaited National Committee on Human Trafficking.<sup>46</sup> It also developed a national referral mechanism, finalised guidelines

for the protection of trafficking victims and created a counter-trafficking manual

for prosecutors,<sup>47</sup> which was launched in September 2013.

## Child pornography/child sexual abuse materials

In Zambia, although the Internet is available to and used by citizens, due to a lack of infrastructure, public access is limited.<sup>48</sup> As of June 2012, the percentage of Internet users in Zambia was around 11.5% of the population.<sup>49</sup>

There are efforts being made in schools to improve digital literacy and introduce children to computers and Internet safety lessons are often included in these lessons.<sup>50</sup> However, there is little information on government or other Internet safety campaigns outside the classroom. Although, as Internet usage is under 12%, this may be due to a lack of demand.<sup>51</sup>

In 2007, the Zambian government launched its National Information and Communication Technology (ICT) Policy. While one of its objectives was to “prevent, detect and respond to cyber-crime and misuse of ICT so as to contribute to the fight against national, regional and international crimes such as pornography, fraud, money laundering, drug trafficking and terrorism,”<sup>52</sup> there is no evidence to suggest that emphasis has been placed on pornography, especially pornography involving children.

Zambia has yet to include the Internet as a means to commit many offences in its laws, but it does criminalise child pornography and can impose a sentence of imprisonment from fifteen years up to life imprisonment on those convicted.<sup>53</sup>

The Zambia Information and Communication Technology Authority (ZICTA) is domesticating the International Telecommunications Union’s (ITU) Child Online Protection (COP) initiative in order to educate children and youth about what to look out for and how to safely use ICTs.<sup>54</sup> Little information about this process is

available. Zambia participated in the ITU’s COP survey, published in June 2010;<sup>55</sup> however, the results of the survey were not reported by country.<sup>56</sup>

ZICTA’s Facebook page<sup>57</sup> provides basic tips on online safety to parents and also explains concepts related to online matters such as “Sexting”, using Social Networks safely and the type of offences covered under the *Electronic Communications and Transaction Act 2009*. The information is shared under a general timeline and not grouped according to categories, making it difficult to navigate and browse specific content. ZICTA has successfully identified that the online platform can bring risks and dangers to children and young people, and are working with their users to create awareness and knowledge on the issue through interactive dialogue and quizzes. However, it is recommended that ZICTA create a set of downloadable resources and guidelines for different stakeholders, including children and their caregivers.

In 2012 and 2013, the Division of Communications and the Office of Research worked jointly with UNICEF country offices in South Africa, Zambia, Kenya, and Argentina to gather primary data on children’s use of digital tools.<sup>58</sup> Within each of these countries the specific focus of the research was determined by the gaps in knowledge that were identified, as well as the country programme priorities of the UNICEF country offices, including: use, motivations and experiences of risk online by children (Kenya and Zambia).<sup>59</sup> Zambia’s decision to focus on risks for children online demonstrates that it considers this a priority, although it is unclear if child pornography was acknowledged or identified in any significant way. The results from the studies were to be used to conduct a workshop at the

2013 Internet Governance Forum to compare the findings from high income and lower income countries on risks and protection strategies for children and to discuss the implication of findings for policy and education and empowerment strategies.<sup>60</sup>

In 2010, the UN launched the African Centre for Cyber Law and Cybercrime

Prevention with the objective of monitoring cyberspace and cyber crime in Africa, as well as organised crime and online child pornography.<sup>61</sup> Zambia established its own national policy framework on cyber crime, but there is little information about this policy and its effect, if any, on the occurrence of child pornography.

## Sexual exploitation of children in travel and tourism

In January 2013, at the launch of the Campaign Against Sexual Exploitation of Children and Youth in Tourism (CASECIT), Zambia's Sports and Youth Minister cautioned against any institution engaging in child sex tourism. This launch took place ahead of the United Nations World Tourism Organisation (UNWTO) conference,<sup>62</sup> which Zambia will co-host in August 2013. At this launch, the Chief Tourism Development Officer said that the sexual exploitation of children in tourism is taking place in some parts of

the country, though it is not widespread.<sup>63</sup> The Executive Director of CASECIT said that the organisation will work to end the sexual exploitation of children in tourism by working with government stakeholders, such as the ministries for Gender and Child Development, Tourism, and Sports and Youth, as well as the police and the media.<sup>64</sup> He also said that CASECIT would engage the private sector such as hotels, lodges and tour operators in preventing CSEC on their premises.<sup>65</sup>

## Other factors contributing to CSEC

### Birth Registrations:

Zambia's *Births and Deaths Registration Act 1973* makes birth registration mandatory.<sup>66</sup> The Act provides a uniform law for the registration of all births and deaths in Zambia, without distinction of origin or descent.<sup>67</sup> Despite this legislation, Zambia's birth registration rate is among the lowest in the world.<sup>68</sup>

Less than 10% of Zambian children are registered at birth.<sup>69</sup> In 2009, UNICEF reported that approximately 16% of urban births and 6% of rural births in the country were registered.<sup>70</sup> In 2012, the Special Rapporteur on extreme poverty and human rights indicated that from 2000 to 2010, only 5% of children from the poorest quintile of the population were registered at birth.<sup>71</sup>

Zambia's low birth registration rates are due to several underlying factors including a lack of public knowledge or demand for birth registration and fear surrounding the disclosure of personal information.<sup>72</sup> Other factors include the complex, centralised and under-resourced legislative and administrative procedures for birth registration and the low priority placed on birth registration by the government.<sup>73</sup> Chapter 51, Section 5 of the *Births and Deaths Registration Act 1973* states that "the birth of every child born and the death of every person dying in Zambia after the commencement of this Act shall be registered in accordance with the provisions of this Act."<sup>74</sup>

Regardless of this provision, the official registration of children is still far from systematic and this creates further challenges to ensuring their well-being.<sup>75</sup> The Special Rapporteur

teur on extreme poverty and human rights pointed out that under this system, the right of undocumented children to an identity, under the Convention on the Rights of the Child (CRC), is violated.<sup>76</sup> Furthermore, she emphasised that free and accessible birth registration should be a priority, as undocumented children have less access to public services and are “statistically invisible for the purposes of policymaking.”<sup>77</sup> Encouragingly, there are currently no fees for registering births in Zambia.<sup>78</sup>

A two-year National Action Plan on Birth Registration was developed in 2011,<sup>79</sup> but has yet to be shared with all relevant stakeholders.<sup>80</sup>

### Child Marriage:

According to UNICEF, incidences of child marriage are high in Zambia.<sup>81</sup> In 2011, Zambia was ranked tenth in the world among countries where child marriage was practiced.<sup>82</sup> Additionally, 42% of Zambian women between 20-24 years old had been married before reaching the age of 18.<sup>83</sup> According to a 2011 report of the UN Special Rapporteur on violence against women, approximately 50% of Zambian women were married by the age of 18 and more than one-quarter of girls and young women between the ages of 15 and 19 were bearing children.<sup>84</sup> In rural areas, this rate was higher.<sup>85</sup>

There are various factors that perpetuate child marriage in Zambia, including high levels of poverty which encourages families to marry off their daughters at a young age, and social norms that support the view that education is less important for girls than it is for boys.<sup>86</sup> The harmful effects of child marriage include separation from family and friends, significant risks of health problems related to pregnancy and childbirth, as well as decreased opportunities for education, which put these children at a higher risk for commercial sexual exploitation.<sup>87</sup>

While the *Marriage Act* establishes the legal age for marriage at 21 years of age, it allows

for marriage below this age with the consent of a parent or guardian, or a judge of the High Court.<sup>88</sup> Article 33 of the *Marriage Act* states that a marriage between persons, either of whom is under the age of sixteen years, shall be void, with an exception permitted in the case where a Judge of the High Court has given consent to the marriage.<sup>89</sup> Customary law, under which most marriages take place, allows for a child to be married when he/she reaches puberty.<sup>90</sup> Most local leaders adhere to customary law and condone child marriage, but recently some have spoken out against it and have taken steps to discourage it.<sup>91</sup>

In an effort to address this practice, Article 55(5)(d) of Zambia’s Draft Constitution states that every child has a right to be protected from discrimination, neglect, abuse and harmful cultural rites and practices, including female genital mutilation and body mutilation, and to be protected from marriage before attaining the age of eighteen years.<sup>92</sup> This new legislation may demonstrate that preventing child marriage is a priority for the government. However, unless this effort is carried over into customary law, it is unlikely that this cultural tradition will change. It is also important to note that this Draft Constitution is not yet a legal document and, in light of President Sata’s recent comment that the constitutional process is not needed and the current Constitution simply requires amendment,<sup>93</sup> may not be approved anytime soon.

In 2013, in an attempt to address this issue as it relates to customary law, the Ministry of Chiefs and Traditional Affairs, along with other government ministries, cooperating partners and civil society commenced a nationwide campaign to end child marriages in Zambia.<sup>94</sup> In addition, UNICEF Zambia is supporting the National Situation Analysis on Child Marriage, which will contribute to the mapping of organisations working on child marriage issues and ultimately to the development of a national strategy on child marriage.<sup>95</sup>

## Traditional leaders involvement

As of 2010, some traditional leaders in Luapula Province had begun acting against child marriages. Chief Kasoma Lwela, a traditional ruler in Mansa, dissolved 15 child marriages in 2010 alone, and in the process sent about 12 girls back to school. He intends to dissolve all child marriages in his jurisdiction through the traditional courts.<sup>96</sup>

## Vulnerable Children:

In Zambia, out of a total population of roughly 14 million, 46% are under the age of 14.<sup>97</sup> In 2012, the Special Rapporteur on extreme poverty and human rights observed that according to the latest available information, extreme poverty and malnutrition continued to affect a large percentage of Zambian children.<sup>98</sup> The large population of children combined with high levels of poverty increase the risk of children in Zambia to commercial sexual exploitation.

Due to the large number of HIV/AIDS related deaths of adults and, as a result, the breakdown of the family safety net in rural areas, a growing number of orphans have migrated to urban areas, increasing the population of street children.<sup>99</sup> According to UNICEF, an estimated 20,000 children work and/or live on the streets and there are 1.2 million orphans under 15 years of age, of which, 800,000 are affected by HIV and AIDS.<sup>100</sup>

A variety of sources report that Zambia's street children population has increased at an alarming rate in recent years and absolute numbers of street children in Zambia are now among the highest in the world.<sup>101</sup> This increase in the number of street children correlates directly to child involvement in the worst forms of labour.<sup>102</sup> Street children are

especially vulnerable to commercial sexual exploitation and, according to the US TIP Report, the problem of children involved in prostitution in Zambia is growing.<sup>103</sup>

The Ministry of Education, Science, Vocational Training, and Early Education; MCDMCH; and the police Child Protection Unit (CPU) work jointly to identify and assist street children.<sup>104</sup> The MCDMCH District Street Children Committee works with the CPU to reunite street children with their families and arrange for schooling and to place others, including orphans and neglected children, in shelters operated by the government and NGOs.<sup>105</sup> The MCDMCH also provides a cash-transfer scheme for vulnerable families to prevent them from sending children into the streets to beg or work.<sup>106</sup>

The Ministry of Gender and Child Development provides education and vocational training to former street children at two converted Zambian National Service Camps in Kitwe and Chipata.<sup>107</sup> Since its inception in 2004, 648 former street children (82 girls and 556 boys) have graduated from the programme.<sup>108</sup> After they graduate from the camps, the ministry places the children in youth resource centres throughout the country where they receive training in carpentry, tailoring, farming and other trades.<sup>109</sup>

## Difficulties with National Service Camps

According to media reports in 2008, the National Service Camps programme that works to rehabilitate children living on the streets in Lusaka was failing due to the government's exclusion of civil society from the programme. It was reported that after the children graduated from the life and trade skills trainings, they were returning to their old lives on the street, as there was no plan formulated by the government as to how the children would use the skills taught.<sup>110</sup>

According to UNICEF, government assistance to street children was provided by the Ministry of Gender and Child Development Cabinet Office.<sup>111</sup> Under the MCDMCH, several centres for street children have been established; however, integration of services with broader social welfare services is weak and there is no national strategy for prevention.<sup>112</sup>

In 2012, the Special Rapporteur on extreme poverty and human rights called on Zambia to finalise the draft National Plan of Action for Orphans and Vulnerable Children.<sup>113</sup> She also welcomed the introduction of a child grant scheme<sup>114</sup> in several districts and urged the government to develop plans to strengthen the linkages between children and social protection.<sup>115</sup>

### HIV/AIDS:

A large proportion of Zambian children grow up in the absence of one or both birth parents.<sup>116</sup> Over 21% of children aged 5-14 years of age (678,480) are either "single" (i.e., one parent deceased) or "double" (i.e., both parents deceased) orphans.<sup>117</sup> An additional 6% of children in this age group are living separately from their parents.<sup>118</sup> In 2009, Zambia's orphan rate ranked alongside that of Zimbabwe's as the highest in the Sub-Saharan Africa region.<sup>119</sup> AIDS is the single

largest factor behind this high orphan rate, responsible for more than one out of every two (57%) orphan cases.<sup>120</sup>

According to Zambia Orphans of AIDS,<sup>121</sup> the country has approximately 1.1 million orphaned children under the age of 18, mostly due to the HIV/AIDS epidemic.<sup>122</sup> According to the Special Rapporteur on violence against women, Zambia has one of the highest HIV prevalence rates in the world – the adult HIV prevalence rate in 2007 was 14.3%.<sup>123</sup> Nearly 80% of all Zambians infected with HIV are under the age of 25.<sup>124</sup>

After the death of their parent/s as a result of HIV/AIDS, children may be deprived of family property, forced to move, separated from siblings, withdrawn from school, and exposed to a variety of risks, threats and abuse.<sup>125</sup> As a result, orphaned children face greater risks of child sexual abuse and child labour.<sup>126</sup>

### Access to Education:

The Convention on the Rights of the Child (CRC) provides that children have a right to free, compulsory basic education.<sup>127</sup>

In 2002, Zambia removed user fees for primary aged children, which helped reduce the cost of education. According

to UNICEF, this has made a significant impact on enrolment rates.<sup>128</sup> In recent years, Zambia has shown an ongoing commitment to improving its education system. Zambia's *Education Act* was amended in 2011 to provide for compulsory school attendance for children in basic education and instituted a ban on marrying a child attending school.<sup>129</sup> In 2012, there was also a budgetary increase to the education sector<sup>130</sup> and Zambia's new Draft Constitution provides for every child's right to a free basic education.<sup>131</sup>

Challenges remain however, in ensuring access to early learning and secondary education where services are either limited or inaccessible to the poorest children due to fees.<sup>132</sup> Contrary to government policy, many teachers and school administrators require students to purchase uniforms or pay a fee before allowing them to attend classes, preventing some children from attending school.<sup>133</sup> The numbers of girls and boys in primary school are relatively equal; however, fewer girls attend secondary school.<sup>134</sup>

Other than the cost, there are additional barriers that keep some children from attending school. For example, in rural areas, schools may be located far away from the child's home – this is cited as the main reason for why over a quarter of Zambian children

do not go to school. Children may also be prevented from attending as some families and communities believe that education is not useful, especially for girls; or the child may have to stay at home to perform domestic duties to help the family.<sup>135</sup> In urban areas, people may live closer to schools but there may not be enough classrooms.<sup>136</sup> According to UNICEF, there is currently a shortfall of 22,000 classrooms and much of the education infrastructure requires rehabilitation.<sup>137</sup>

The UN Committee on the Elimination of Discrimination against Women has welcomed the new *Education Act* and the progress in enrolment, retention and progression of girls at the basic school level.<sup>138</sup> However, the Committee has expressed concern that girls continue to drop out of school, especially in rural areas, and that there is a lack of adequate capacity and infrastructure at schools, including appropriate sanitary facilities for girls.<sup>139</sup>

While there have been budgetary increases in the education sector, Zambia is among the many African countries that have failed to reach the target of allocating 26% of the total National Budget to the education sector or 6% of Gross National Product, as per the Education for All (EFA) goals.<sup>140</sup>

## NATIONAL PLANS OF ACTION

Each government should develop and implement specific policies and National Plans of Action (NPAs) to protect children from all forms of CSEC. The NPAs should establish a comprehensive framework for

intervention in the following five key areas: coordination and cooperation; prevention; protection; recovery and reintegration; and child participation.

### NPA for Children/NPA for Orphans and Vulnerable Children

Zambia's government adopted a National Child Policy (NCP) in 2006 to promote child welfare in the country.<sup>141</sup> The NCP

provides guidelines for improving the welfare and quality of life of children, as well as for protecting their survival and developmental

rights.<sup>142</sup> One of the objectives of the NCP was to ensure the harmonisation of national legislation with the CRC, as well as to consolidate all existing and proposed legislation pertaining to children into one comprehensive statute.<sup>143</sup> Through the NCP, the Zambian Ministry of Gender and Child Development proposed a number of objectives and measures to stop child economic exploitation and child labour in Zambia.<sup>144</sup> The policy also highlighted the need to work to prevent child trafficking.<sup>145</sup>

The prevention of child labour was a key aspect to the NCP. Suggested measures included promoting a strong watchdog agency on child economic exploitation and strengthening the institutional and organisational capacities for child labour prevention programmes and implementation.<sup>146</sup> The NCP also highlighted the need for reducing the high levels of poverty in communities and promoting awareness-raising activities of children's rights in communities, especially in rural areas.<sup>147</sup>

The NCP also included objectives for stopping the sale of children, child trafficking and child abduction such as protecting the child from all forms of exploitation, and "preventing the sale, trafficking and abduction of children for any purpose and in any form."<sup>148</sup>

In order to meet these prevention goals, the NCP proposed strengthening immigration laws and ensuring that they were implemented; providing more support to the Zambia Police to operate efficiently to prevent activities relating to the sale and trafficking of children; and preventing cultural practices that promote abduction of children for marriage and any other purpose.<sup>149</sup>

In recent years, the Zambian government has sought to update and revise its NCP, including the incorporation of issues relating

to orphans and other vulnerable children (OVC); however, the continuing absence of a separate OVC action plan is hindering progress.<sup>150</sup> The National OVC Steering Committee, which was inactive in recent years,<sup>151</sup> has recently been revived.<sup>152</sup> Using the National Child Policy as the guiding policy framework on OVC issues, the government has been working with other stakeholders to produce a National Plan of Action (NPA) for Orphans and Vulnerable Children.<sup>153</sup> The NPA was put in place and piloted in some districts, but the funding for the implementation was inadequate. Currently, the NCP is under review so the new NPA will only be finished after this review is completed.<sup>154</sup> This draft NPA has been in the development stages for years, which suggests a lack of interest and/or political will to address the specific needs of OVC.<sup>155</sup> While issues affecting OVC are addressed in the Fifth National Development Plan (FNDP) as well as other development plans, clear policy direction for the care and protection of orphans and other vulnerable children is lacking.<sup>156</sup>

The National Plan of Action (NPA) for Children in Zambia for 2009-2010, implemented by the then Ministry of Sport, Youth and Child Development, outlined clear actions to be taken for the survival, growth, promotion, protection and development of the child.<sup>157</sup> The NPA outlined various strategies to accomplish these goals including strengthening the capacity of families to protect and care for children; mobilizing community-based and government responses for the care, support and protection of children; ensuring that legislative and policy strategies were in place to protect all children including the most vulnerable children; ensuring access for all children, including OVC to basic essential services; and raising awareness and advocacy to create supportive environments for children.<sup>158</sup>

In 2010, the National Plan of Action for Children was extended for another five

years, in accordance with the Sixth National Development Plan (SNDP), and its monitoring and evaluation framework was launched by the Ministry of Sport, Youth and Child Development (MSYCD).<sup>159</sup> The

NPA sets out the policy framework for the government to address child and youth issues and to identify key priorities, strategies and resource commitments.<sup>160</sup>

## NAP for the Elimination of the Worst Forms of Child Labour

### Child economic activity

It has been estimated that over 40% of Zambian children are engaged in economic activity. In 2009, ILO estimated the number of working children to be in excess of 1.2 million.<sup>161</sup> According to a report on child labour in Zambia in 2009, around 65,557 (20%) of five-year-olds, 69,385 (23%) of six-year-olds and 119,142 (35%) of seven-year-olds were already at work in economic activity.<sup>162</sup>

The Government of Zambia launched its Child Labour Policy in April 2011.<sup>163</sup> The policy establishes an action plan and designates agencies responsible for addressing child labour issues.<sup>164</sup> Both District Child Labour Committees and Community Child Labour Committees help to implement the policy.<sup>165</sup> These Committees create awareness of the worst forms of child labour and monitor the implementation of child labour programmes at the district and village levels.<sup>166</sup> In 2011, the National Action Plan (NAP) for the Implementation of the Time Bound Programme (TBP) for the Elimination of the Worst Forms of Child Labour was launched by the Ministry of Labour and Social Security (MLSS).<sup>167</sup> This NAP supports the continuation of child labour awareness efforts implemented under the country's TBP.<sup>168</sup>

Developed in 2009 and launched in November 2011, the National Action Plan for the Elimination of the Worst Forms of

Child Labour was created to address the need for updating Zambia's national legislation and policies to fulfil its international obligations.<sup>169</sup> One of the NAP's primary goals is to coordinate its activities with the National Development Plan and the various sectoral policies and programmes approved by the government.<sup>170</sup> The NAP also seeks to involve in its activities government stakeholders, international organisations, NGOs, community-based organisations, faith-based organisations, donors, the private sectors and media organisations.<sup>171</sup>

The NAP identifies several measures needed to eliminate the worst forms of child labour that include improving enforcement of existing laws and policies on child labour; strengthening coordination and coalition building; awareness raising on child labour issues; establishing monitoring and evaluation systems; and enhancing prevention, withdrawal and social reintegration systems.<sup>172</sup>

## NAP to Combat Trafficking in Persons 2012-2015

The National Policy to Combat Human Trafficking in Zambia was developed and approved by the Cabinet in 2007.<sup>173</sup> It pro-

vides long-term guidance and a framework for the development and implementation of comprehensive interventions in the area of

trafficking prevention, law enforcement, and victim assistance.<sup>174</sup> In 2013, the government continued implementation of its 2012-2015

NAP to combat trafficking, which was finalised in March 2012.<sup>175</sup>

## COORDINATION AND COOPERATION

Coordination and cooperation are crucial for an efficient and effective fight against CSEC. In accordance with the Stockholm Declaration, close interaction and cooperation between government and non-government sectors is necessary to effectively plan, implement and evaluate measures to combat CSEC.

At an international level, effective cooperation is required between countries and international organisations, including regional organisations, to ensure a concerted and coordinated approach is taken in eliminating CSEC.

### Local and national levels

As of 2010, Zambia ranked 22 out of 52 in the index ranking of child protection in the African Report on Child Wellbeing, developed by the African Child Policy Forum.<sup>176</sup> According to various NGOs working in the country, Zambia's child protection system is not well coordinated among national government agencies through relevant ministries and departments responsible for the welfare of children.<sup>177</sup>

As a result, the ministries refer to different legislation and implement uncoordinated, and often duplicated, children's policies.<sup>178</sup> In recent years, however, the government has made efforts to improve the coordination among agencies and local organisations regarding the child protection system.

In 2010, Zambia established a Technical Working Group on the Toolkit to Map and Assess the Child Protection System of Zambia, chaired by the Director of Child Development within the then MSYCD (now the Ministry of Gender and Child Development).<sup>179</sup> The Working Group included representatives from each of Zambia's nine provinces, the Ministry of Community Development and Social Services (MCDSS), CHIN, as the secretariat

coordinating the process and UNICEF.<sup>180</sup> Following orientation sessions on the child protection system and the Toolkit, a series of working groups was formed to conduct hands on exercises on the Toolkit.<sup>181</sup> Plenary sessions were conducted to gather feedback on the content of the Toolkit, with a particular focus on opportunities for customisation of the Toolkit for Zambia.<sup>182</sup>

As a result of these sessions, several issues were identified in Zambia with respect to its child protection system: (1) The Ministry of Gender and Child Development (MGCD) and Ministry of Community Development, Mother and Child Health<sup>183</sup> both play central roles in child protection in Zambia and consideration should be given to having each Ministry co-direct the Task Force; (2) The Ministry of Finance should be invited to join the Task Force to increase the chance of adequate governmental financial support for the systems work; and (3) Parliament is considering legislation for a Zambian Council for Children, which would coordinate children's issues in the country.<sup>184</sup> This Council for Children has not yet been established.<sup>185</sup>

In 2011, CHIN and PLAN began implementing a child protection and participation project in the Mansa and Chibombo districts.<sup>186</sup> The goal of the project is to strengthen existing services or support the establishment of child protection systems at the community level.<sup>187</sup> The project utilises a multi-stakeholder approach to strengthening mechanisms for protecting children at the community level and promotes child participation.<sup>188</sup>

In addition to the increase in collaboration on behalf of the child protection system in general, further cooperation has been focused specifically on child labour and child trafficking issues.

The MLSS's Child Labour Unit (CLU) is the primary government agency responsible for the implementation and enforcement of child labour laws.<sup>189</sup> It coordinates with District Child Labour Committees (DCLCs) in 18 of Zambia's 83 districts to combat child labour, increase local awareness of child labour and mobilise communities against the worst forms of child labour and human trafficking.<sup>190</sup> The CLU plans to establish DCLCs in all districts but currently lacks the resources to do so.<sup>191</sup>

The CLU and the Zambia Police Service (ZPS) partner with the Ministry of Justice; the Ministry of Education, Science, Vocational Training and Early Education; the MCDMCH's Child Protection Unit (CPU) and District Street Children Committees; the Ministry of Home Affairs (MHA) Child Protection Unit; and the Drug Enforcement Commission.<sup>192</sup> The ZPS CPU works with MLSS officials to identify and remove vulnerable children from the streets.<sup>193</sup> The CPU also works with 72 District Street Children Committees to place street children in the worst forms of child labour with families, in foster care or in children's homes.<sup>194</sup> In addition, the CPU collaborates with the Ministry of Justice to investigate and prosecute child labour cases.<sup>195</sup> However, the

previously mentioned ongoing problem with coordination, overlapping responsibilities and miscommunications, prevented enforcement actions from being carried out effectively in some situations.<sup>196</sup>

The MHA established an Inter-Ministerial Committee on Human Trafficking, which works to coordinate and share information on trafficking issues among government agencies.<sup>197</sup> The Committee's objectives include coordinating projects on protection, prevention and prosecution of human trafficking, as well as aiding in the development and revision of policies and legislation on human trafficking.<sup>198</sup> Nominated members are from the ZPS, immigration authorities, the Ministry of Justice, the Ministry of Labour, the Ministry of Health, and the Ministry of Community Development.<sup>199</sup> The National Secretariat has been operating on an interim basis pending the Committee's formation and is responsible for developing strategies to implement the National Action Plan to Combat Trafficking in Persons.<sup>200</sup>

While the establishment of the Committee is admirable, the implementation of the Committee's objectives and the effect of the Committee have been hard to measure. In its observations in 2011 of Zambia's report, the Committee of Experts on the Application of Conventions and Recommendations (CEACR) requested that the government provide information on the implementation of the programmes on protection, prevention and prosecution concerning human trafficking, coordinated by the Inter-Ministerial Committee on Human Trafficking. The CEACR also requested information on the results achieved, in terms of the number of children prevented or withdrawn from trafficking and those in recovery.<sup>201</sup>

The MCDMCH and the MHA are currently working with the United Nations Joint Programme on Human Trafficking (IOM,

ILO and UNICEF) to enhance support for the implementation of the National Policy to Combat Human Trafficking and the National Action Plan. This support includes providing assistance to victims of human trafficking; developing and implementing training activities targeting law enforcement, prosecutors, social welfare, labour officers and the media; awareness raising activities; and improving the management of human trafficking data.<sup>202</sup> In January 2012, the MCDMCH and the MHA collaborated with the UN Joint Programme on Human Trafficking to provide training on local implementation of a NAP to Combat Trafficking in Persons at a three-day workshop in Zambia's eastern and western provinces.<sup>203</sup>

In 2012, the Government of Zambia, with support from the UN Joint Programme on Human Trafficking (ILO, IOM and UNICEF) and Plan International, hosted the Third National Symposium on Human Trafficking.<sup>204</sup> The Symposium, entitled "Reaching the Goal: Committing to a Zambia Free of Human Trafficking", brought together governmental and non-governmental actors from across the country to highlight stakeholder efforts towards combating human trafficking in Zambia, share national priorities for preventing trafficking and enhance agency coordination for the effective implementation of national priorities.<sup>205</sup> The Symposium also reviewed progress made in implementing the *Anti-Human Trafficking Act 2008* and the National Policy to Combat Trafficking in Persons.<sup>206</sup>

Participants in the Symposium included delegates from donor communities; government ministries such as the MHA, MCDMCH, Ministry of Labour, Ministry of Education and Ministry of Justice; representatives from government departments at the district level; ILO social partners; international nongovernmental organisations; local nongovernmental organisations; faith based organisations; and child representatives from school coalitions.<sup>207</sup>

The resolutions and priorities on human trafficking developed out of the Symposium emphasised the need for continued awareness-raising on the human trafficking problem and the development of a national referral mechanism. The training of law enforcement officers, the enhancement of border control management, the decentralisation of the Inter-Ministerial Committee on Human Trafficking and the improvement of data collection systems were additional objectives identified at the Symposium as vital for the prevention and elimination of human trafficking in Zambia.<sup>208</sup>

A toll free child helpline was launched in October of 2011 which was the result of a strong collaborative effort between PLAN Zambia, Save the Children, the Ministry of Community Development, Mother and Child Health and UNICEF.<sup>209</sup> Unlike other phone services, the child helpline offers toll free calls to children from both fixed and mobile lines thus making it accessible to a wide range of children.<sup>210</sup>

## DATA COLLECTION

In 2012, the government completed development of a database to track trafficking case data.<sup>211</sup> In order to facilitate the accurate collection of data, Zambian police intake forms were revised for the first time since 1972 to include human trafficking and

gender-based violence and were distributed to all police stations in Zambia.<sup>212</sup> This database is limited to trafficking cases, and hence there is a data collection gap when it comes to child pornography, child prostitution and the sexual exploitation of children in tourism.

## Regional and international level

In 2008, Tasintha Programme and Equality Now<sup>213</sup> organised a three day Regional Conference in Lusaka on “Ending Trafficking and Commercial Sexual Exploitation of Women.”<sup>214</sup> The Conference included participants from Botswana, Kenya, Malawi, Mozambique, Namibia, Nigeria, Rwanda, South Africa, Swaziland, Tanzania, Uganda, Zambia and Zimbabwe.<sup>215</sup> It gave organisations and survivors of commercial sexual exploitation the opportunity to share their experiences and strategies in working to end the trafficking and commercial sexual

exploitation of women and girls.<sup>216</sup> The participants looked at the root causes of the problem, shared best practices and provided recommendations to governments.<sup>217</sup>

In 2012, the government increased its partnerships in the region by signing anti-trafficking cooperation memoranda of understandings with Angola, Namibia,<sup>218</sup> Zimbabwe and Botswana and anticipates signing memoranda of understandings with the DRC, Malawi and Mozambique in 2013.<sup>219</sup>

## PREVENTION

The effective prevention of CSEC requires multi-faceted strategies and policies that simultaneously address the different elements of the problem. These strategies should be aimed at both vulnerable children and offenders who engage in sexual activities with children, while also addressing the root causes of CSEC such as poverty and lack of education.

Long term prevention strategies include improving the status of children who are most vulnerable to CSEC by implementing policies to reduce poverty and social inequality and improving access to education, health and social services. Effective short to medium term strategies include awareness-raising campaigns and education and training

initiatives for the general public, vulnerable groups and government officials.

The resources, expertise and influence of the private sector, particularly the tourism and IT industries, should also be used in prevention measures, in particular in awareness-raising activities.

Furthermore, information, education and outreach programmes should be directed at those engaging in the commercial sexual exploitation of children (e.g. abusers of children forced into prostitution) to promote changes in social norms and behaviour and reduce the demand for child victims of commercial sexual exploitation.

## Awareness-raising

UNICEF and the UN Joint Programme on Human Trafficking made progress in raising awareness and sensitising communities to the problem of trafficking through a month-long multi-media campaign conducted in November 2010 in six provinces.<sup>220</sup> Ten

children’s coalitions were formed in ten districts to continue awareness-raising efforts in local communities about human trafficking.<sup>221</sup>

In 2011 and 2012, the “Break the Chain

of Human Trafficking” campaign brought trafficking awareness to urban centres and rural areas.<sup>222</sup>

In July 2010, ZICTA held a two-day inter-secondary school ICT quiz.<sup>223</sup> The

programme saw nine schools competing on different issues regarding ICTs with an aim at creating awareness of child protection in cyber space, cyber crimes and pornographic issues.<sup>224</sup>

## Training and education

In October 2012, the Government of Zambia, in consultation with 60 stakeholders, and in partnership with the UN Joint Programme on Human Trafficking (UNJPHT), launched the Minimum Standard Guidelines on Protection of Victims of Trafficking.<sup>225</sup> The guidelines, in accordance with the 2008 *Anti-Trafficking Act*, establish the minimum care provisions to be provided to victims.<sup>226</sup> By early 2013, the government had successfully distributed the manual in all provinces and trained 148 service providers, including social welfare and immigration officials, on its provisions.<sup>227</sup>

The MLSS,<sup>228</sup> as part of the implementation of the Anti-Trafficking National Action Plan, trained 50 labour officers on the 2008 *Anti-Trafficking Act*, the *Labour Act*, and the 2011-2012 National Action Plan<sup>229</sup> and partnered with ILO to train an additional 154 staff during the year.<sup>230</sup> The Government of Zambia, in collaboration with IOM, conducted a training of trainers for law enforcement officers using a newly developed counter-trafficking training handbook.<sup>231</sup> However, it should be noted that this training was not focused specifically on the trafficking of children for sexual purposes.<sup>232</sup>

The Government of Zambia participated in the European Commission-funded TACKLE Project to combat child labour through education in 11 countries.<sup>233</sup> As part of the project, ILO trained government officials and teachers on child labour issues, implemented four Action Programmes to assist children living in vulnerable communities, and raised awareness on child labour through education initiatives.<sup>234</sup>

The four year project ended in February 2012. These trainings and education programmes cannot be continued without sustained financial support from the government.<sup>235</sup>

The government works to rehabilitate street children by providing education and vocational training at two converted Zambia National Service camps in Kitwe and Chipata.<sup>236</sup> Since the camps were created in 2004, 648 former street children (82 girls and 556 boys) and other vulnerable young persons have graduated from the programme.<sup>237</sup> In 2012, enrolment at mid-year was 454, of whom 145 were girls.<sup>238</sup> After the children graduate from the camps, they are placed in youth resource centres throughout the country and receive training in carpentry, tailoring, farming, and other trades.<sup>239</sup> As previously mentioned however, these camps have experienced problems, the worst of which is children returning to the streets.

In 2009, as part of the Child Justice Forum,<sup>240</sup> efforts were made to strengthen the administration of justice for children with the training of 49 High Court and Supreme Court Judges in the handling of child witnesses/victims of crime and preparation of children for court.<sup>241</sup> However, the Child Justice Forum does not have legal status and continues to be reliant on external resources to function.<sup>242</sup>

As a part of UNICEF’s Child Protection and Empowerment programme in 2010, 65 journalists from both mainstream and community media were trained on issues of human trafficking in order to act as “change agents” through the mass media.<sup>243</sup> The

results of the programme were expected to be analysed by early 2011,<sup>244</sup> however, these results are still currently unavailable.

ECPAT member group CHIN, working with Media Network on Child Rights and Development, trained 30 journalists in child protection.<sup>245</sup> Due to these efforts there has been some marked change in the way the media report cases involving children. Journalists are more careful in protecting the dignity of children and maintaining confidentiality by concealing the identity of child victims of violence. CHIN also

participated in a regional training on the “Make IT Safe” campaign, organised by an ECPAT member group in Uganda in October 2010. Specific training was given to implement the “Code of Conduct for Cyber cafes” to ensure that establishments and its services are not misused for exploiting children. This training helped CHIN to raise awareness on Internet safety and organise similar trainings in Zambia. CHIN has continued to raise awareness among children and service providers to protect children from cyber crimes and ensure that children themselves participate in such efforts.<sup>246</sup>

## Vulnerability reduction

During the period 2010-2011, the Zambian government, in collaboration with UNICEF and other partners, introduced two social assistance (cash transfer) programmes targeting children: the OVC, for which little information is available, and the child grant scheme.<sup>247</sup> These programmes are currently being implemented in five of the most impoverished districts in the country and are expected to be scaled up to five more districts.<sup>248</sup>

In 2011, the child grant scheme was introduced to three of the most impoverished districts in Zambia.<sup>249</sup> The child grant scheme is designed to assist children under the age of five and disabled children under the age of 14.<sup>250</sup> The scheme has provided 10,793 mothers with cash transfers of \$25 or \$50, depending on the category they fell under.<sup>251</sup> Although complete results of the scheme are not available, there is anecdotal evidence of improved nutrition and health status of children, household food security and income and improvements in the social status of women.<sup>252</sup>

Under its Youth and Child Development section, Zambia's FNDP 2007-2010 stated

that, “as a signatory to the many international human rights instruments affecting children and youth, Zambia would take the necessary legislative and administrative measures towards the fulfilment of the ideals that are enshrined in the international instruments.”<sup>253</sup> Additionally, to meet the objective of promoting human rights, it listed domestication of international conventions and covenants as one of its strategies.<sup>254</sup> Child protection was also addressed in the FNDP and focused on providing legal and social protection to vulnerable children.<sup>255</sup> According to the government, during the three years that the FNDP existed, it reintegrated 3,365 street children into their families and communities.<sup>256</sup> During that same time, the government reported that it constructed two children's homes in Chikumbi and Mufulira.<sup>257</sup> In 2010, the last year of the FNDP, UNICEF conducted a review, strategic planning, and identification of results of the FNDP in order to prepare for the new SNDP 2011-2015.<sup>258</sup>

One of the objectives of the SNDP is to improve the quality of life and well-being of vulnerable people, including specific provisions related to child welfare.<sup>259</sup> This

outcome will focus on, *inter alia*, prevention, protection and rehabilitation from human trafficking, worst forms of child labour and gender based violence.<sup>260</sup> Another goal is to encourage and support increased participation of children and youth in all areas affecting their well-being and livelihood.<sup>261</sup> One strategy proposed to achieve this goal is to conduct awareness campaigns on child rights and the SNDP has a target of 24 awareness campaigns each year from 2011-2015.<sup>262</sup>

Furthermore, the SNDP undertakes, as a key reform, reviews of legislation in child affairs and attempts to “ensure the harmonisation and effective coordination of the various pieces of legislation in conjunction with other stakeholders.”<sup>263</sup> Despite these measures to promote child protection and welfare, it is difficult to determine if or how the SNDP will affect CSEC in Zambia, especially considering that neither the CRC nor CSEC are focused on in the plan.

## Deterrence measures

According to several sources, the Zambian government has not made efforts to reduce the demand for commercial sex acts in

recent years<sup>264</sup> and has not yet implemented a coordinated or comprehensive strategy to reduce the incidence of human trafficking.<sup>265</sup>

## Research on CSEC

In 2006, a detailed assessment of the commercial sexual exploitation of children was conducted by Zambia’s Central Statistical Office, MLSS and other government ministries in collaboration with ILO/IPEC, UNICEF and the World Bank, as part of a report on child labour.<sup>266</sup> The assessment looked at the experiences of 2019 sexually-exploited children aged 5-17 years from 15 districts across nine provinces; making it the largest such study ever conducted in the country.<sup>267</sup> The study revealed links between CSEC and various aspects of Zambian society in an effort to identify the most pressing needs of CSEC victims and ultimately to aid in addressing those needs.

The study highlighted the link between HIV/AIDS and CSEC, as almost two-thirds of the child participants involved in commercial sexual exploitation were either single or

double orphans.<sup>268</sup> One reason for this is that the AIDS pandemic in Zambia has seriously weakened traditional extended family support mechanisms, and forced many orphaned children onto the streets in order to survive.<sup>269</sup>

The 2006 study also revealed a link between commercial sexual exploitation and household exposure to shock.<sup>270</sup> The link is clear when noting that almost one-half of the sexually-exploited children came from households experiencing some form of shock, suggesting CSEC might form part of household survival strategies.<sup>271</sup> Additionally, the assessment exposed the complex nature of CSEC in Zambia, as evidenced by the fact that, in 42% of cases, children indicated their families were aware of their exploitation.<sup>272</sup>

The 2006 study provided further evidence of the extreme nature of the abuse suffered by

children in commercial sexual exploitation.<sup>273</sup> Some children were forced to perform two to three sex acts per day on average and beatings and other forms of physical abuse accompanied the sexual exploitation in one-quarter of the cases.<sup>274</sup> One-quarter of the children interviewed had been involved in commercial sexual exploitation for two or more years and 41% indicated being “trapped” in commercial sexual exploitation for as long as their exploiters demanded.<sup>275</sup> Around one-fourth indicated having contracted a sexually-transmitted disease and 7% reported being HIV positive.<sup>276</sup> Feelings of guilt, fear and depression were commonplace among girls and boys alike.<sup>277</sup> Although most of the children interviewed were older, child victims as young as five years of age were discovered in four of the nine provinces covered.<sup>278</sup>

In 2008, a child marriage study conducted in the programme areas of Plan Zambia (Chadiza, Chibombo, Mansa and Mazabuka) was published in order to provide information on the extent, causes and consequences of early marriage in these areas.<sup>279</sup> The study revealed that nearly two-thirds of all the early marriages examined involved children between the ages of 14-15 years old.<sup>280</sup>

The common causes of child marriage as determined by this study included: poverty, culture and tradition of preservation of girls’ sexual purity before marriage, parents’ lack of knowledge of the negative consequences of the child marriage practice, ignorance and lack of enforcement of the laws and inadequate/lack of care for orphans which forces them to enter into early marriages as a means of survival.<sup>281</sup>

Some of the negative consequences of early marriages as reported by the respondents in the study include: marriage break-ups since most of the marriages were based on coercion; affects on children’s educational completion – the study confirmed the negative impact of early marriage on the continuation of education, especially for girls; negative impacts on the health of girls; and isolation of children from social interaction with peers.<sup>282</sup>

To address the issue of child marriage, the study recommended community mobilisation through awareness-raising campaigns, specifically involving influential people such as traditional, political and religious leaders.<sup>283</sup> It also suggested addressing economic factors and gender biases, enforcement of the law and harmonising customary and common laws, promoting education for girls, and providing support for girls who are in early marriages.<sup>284</sup>

UNICEF had planned another study on child marriage, scheduled to be completed in mid-2012, enabling a more informed and systematic response to this issue.<sup>285</sup> However, there is no evidence to suggest that such a study has been started. These kinds of reports would be used to guide parliamentarians in law reform and develop policy initiatives to combat child marriage.<sup>286</sup>

The UNJPHT undertook research to examine the link between child trafficking and domestic work in 2011.<sup>287</sup> The report, entitled *Children’s Health, Wellbeing and Mobility in Zambia*, documents a strong link between trafficking, exploitation, orphanhood and child domestic work<sup>288</sup> and contributes to a better understanding of child exploitation in Zambia.

# PROTECTION

## Children’s rights instruments related to CSEC

Comprehensive and effective legislation is essential to protect children from commercial sexual exploitation. Specific laws must be developed, implemented and/or strengthened to combat the various manifestations of CSEC. These laws must be reviewed and updated regularly to incorporate evolving forms of CSEC, such as grooming or viewing

and accessing child pornography online, and changes in the international legal framework. As well as enacting legislation that is compliant with international standards and obligations, national laws must be effectively enforced. Policies and procedures to protect child victims and/or witnesses are also essential.

International instruments	
Human Rights bodies related to Child Rights	Comments
Charter-based bodies	
Working Group on the Universal Periodic Review – Human Rights Council	<p>Last review 14th Session (2012) – Conclusions related to CSEC:</p> <ul style="list-style-type: none"> <li>- Continue to enhance cooperation with development partners in order to improve financial and technical capacity to implement the Anti-Human Trafficking Act of 2008</li> <li>- Maintain efforts in the process of reviewing national laws to bring them in line with international human rights obligations</li> <li>- Adopt and implement appropriate measures to address sexual abuse and exploitation of children as well as child labour</li> <li>- Adopt comprehensive measures to combat trafficking in human beings; organise a visit of the Special Rapporteur on trafficking in persons as well as the Special Rapporteur on the sale of children, child prostitution and child pornography</li> <li>- Ratify the OPSC</li> <li>- Establish a definition of the child in accordance with Article 1 and other principles and provisions of the CRC</li> </ul> <p>Next review 2017</p>

Human Rights bodies related to Child Rights	Comments	
Charter-based bodies		
Special Rapporteur on the sale of children, child prostitution and child pornography	No visits to date	
Special Rapporteur on trafficking in persons, especially in women and children	No visits to date	
Treaty-based bodies		
Committee on the Rights of the Child		
Children's rights Instruments	Date of ratification	Date of submitted reports
UN Convention on the Rights of the Child – 1989	6 December 1991	Initial report submitted on 29 November 2001 2nd, 3rd, 4th periodic report due on 4 January 2009; submitted 13 August 2013
Optional Protocol on the sale of children, child prostitution and child pornography – 2000	Signed 29 September 2008; not yet ratified	
ILO Convention on the Worst Forms of Child Labour - 1999 (No. 182)	10 December 2001	
UN Convention against Transnational Organized Crime – 2000	24 April 2005 (accession)	
UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and children – 2000 (supplementing the UN Convention against Transnational Organized Crime)	24 April 2005 (accession)	
Regional Instruments	Date of ratification	Date of submitted reports
African Charter on the Rights and Welfare of the Child	2 December 2008	

Article 1 of the CRC defines a child as every human being below the age of 18.<sup>289</sup> The definition of a child in Zambia depends on the specific legislation applied to the individual circumstance.<sup>290</sup> Definitions of childhood under different Zambian laws refer to a “young person,” “infant,” “minor” or “juvenile”<sup>291</sup> as well as a “child.”<sup>292</sup> Zambia has at least 26 pieces of legislation which provide for and regulate the rights of children and this inevitably leads to inconsistencies in defining the age of a child.<sup>293</sup> These inconsistencies demonstrate that the CRC has not yet been completely domesticated into Zambian law.<sup>294</sup>

Zambia’s Constitution has undergone several revisions since the country gained independence in 1964.<sup>295</sup> Zambia’s current Constitution came into force in 1991 and was last amended in 1996. While the current Constitution guarantees rights to all persons including children, it does not define the age of a child.<sup>296</sup> It does however, in Article 24(4), define a “young person” as any person under the age of 15 years.<sup>297</sup> There is now a new Constitution in draft form, the Draft Constitution of Zambia Bill 2012, which is expected to be tabled before Parliament later in 2013. Article 55 of the Draft Constitution of Zambia defines a child as anyone below the age of 18 years.<sup>298</sup> However, as noted earlier in this report, it is unclear whether the Draft Constitution will be approved given President Sata’s public comments which suggest the contrary.<sup>299</sup>

In 2005, Zambia’s Penal Code was reviewed and amended, through the *Penal Code (Amendment) Act No. 15 2005*, with a view to addressing the sections that focus on child protection issues.<sup>300</sup> Subsequently, the *Penal Code (Amendment) Act No.2 of 2011* further revised sections regarding defilement, as well as certain provisions in the Penal Code related to indecent assault and child

pornography. Section 138 of the Penal Code prohibits defilement of children, which is the unlawful carnal knowledge of a child under the age of 16.<sup>301</sup> The law provides penalties of up to life imprisonment for persons convicted of defilement; the minimum penalty is 15 years in prison (as amended by Act No. 15 of 2005).<sup>302</sup> However, the *Penal Code (Amendment) Act No.2 of 2011* added the proviso that it is a sufficient defence to defilement of a child to prove that the offender had reasonable cause to believe, and did in fact believe, that the child was of, or above, the age of sixteen.<sup>303</sup> The *Penal Code* also allows consent of the victim, parent or guardian as a defence for some offences; for example, the abduction of girls under 16 or detention of a girl between 16 and 18 for immoral purposes.<sup>304</sup> Some of these recent amendments enhance the prevention of CSEC, whereas others are a step backwards for Zambia in terms of providing a robust legal framework to protect children’s rights. One example of the latter is evidenced by Section 131A of the *Penal Code*. Section 131A was amended in 2005 to define a child as a person below the age of 16 years,<sup>305</sup> contrary to Article 1 of the CRC. In 2012, it was reported that the *Zambian Penal Code* would undergo a comprehensive review.<sup>306</sup> This process has been started and is being undertaken by the Zambia Law Development Commission but it is unclear how far the process has progressed.<sup>307</sup>

The *Marriage Act* stipulates that any person below 21 years of age requires the written consent of a parent or guardian before a marriage is contracted.<sup>308</sup> Under customary law, a girl child is defined as one who has not yet reached puberty, and consequently it allows for the contracting of a marriage after attainment of puberty, but with parental consent.<sup>309</sup> The minimum statutory age for consensual sex is 16 years old.<sup>310</sup> This parallel legal framework, which includes

contradicting definitions of a child, does not provide a uniform, coherent or consolidated approach to issues affecting children, including commercial sexual exploitation.<sup>311</sup>

Zambia reported in the 2008 *Report of the Working Group on the Universal Periodic Review* that a Child Law Reform Secretariat within the MCDSS had been set up for the purpose of reviewing all child-related legislation to bring it into conformity with the CRC and the *African Charter on the Rights of the Child*.<sup>312</sup> However, this harmonisation of national legislation with the CRC and the African Charter has yet to be realised. In 2011, the government announced it would domesticate the CRC into national law and UNICEF responded by supporting the Law Development Commission to begin the process of drafting amendments to existing law to ensure compliance with the CRC.<sup>313</sup> In February 2013, Zambia reported that it was in the process of carrying out a mapping exercise in order to domesticate all human rights treaties to which it is a party.<sup>314</sup> According to CHIN, there has been progress in domesticating the CRC and several pieces of legislation affecting children have been revised to be in harmony with the CRC. In October 2013, a validation meeting was held for stakeholders to validate the Draft Child Code Bill.<sup>315</sup> Access to this Draft Bill is not widely accessible, however, some of its objectives include: reform and consolidate the law relating to children, establish procedures for the treatment of children in conflict with the law, provide for the establishment of Children's Courts, and domesticate the CRC and the African Charter on the Rights and Welfare of the Child.<sup>316</sup>

The Draft Constitution of Zambia Bill 2012, which contains a Bill of Rights, would ensure domestication of the CRC through the constitutional reform process.<sup>317</sup> According to Article 55(5)(l) of the 2012 Bill, every child has a right to protection from all forms of sexual exploitation or abuse.<sup>318</sup>

The legal situation regarding CSEC is further complicated by the fact that Zambia is governed by two parallel legal systems: customary law and statutory law.<sup>319</sup> This system of statutory and customary law is applied inconsistently, resulting in violations of the rights of vulnerable groups, particularly children.<sup>320</sup>

Where a case falls under the jurisdiction of local courts, customary law prevails.<sup>321</sup> This includes cases of traditional marriage, pregnancy, inheritance and domestic disputes. The local courts do not have jurisdiction to try most serious offences;<sup>322</sup> however, serious cases such as those involving the defilement of teenage girls are commonly heard in local courts, because they are not deemed to be "serious," especially where it is found that the victim has consented. This means that perpetrators of child sexual exploitation may receive a lighter sentence, such as a fine, compared to the much more substantial sentences prescribed under statutory law.<sup>323</sup>

According to UNICEF, in general, "customary law [in Zambia] grants significantly fewer rights to women and girls than statutory law and is principally based on male power, authority, and domination over women."<sup>324</sup> Where customary law is deemed applicable, statutory law is deemed subordinate; and when customary law takes precedence, "the worst victims are women and girls, stemming from the social and cultural factors which degrade [their] position."<sup>325</sup> Additionally, certain provisions under statutory law – such as equality in property division and inheritance, the minimum legal age for marriage in the *Marriage Act* and the criminalisation of sex with a girl under 16 years of age under the *Penal Code* – rarely apply in customary law.<sup>326</sup>

Because under customary law marriage can take place at puberty, it is commonplace for girls to be married or have sexual relations under the age of 16.<sup>327</sup> Further, once "lobola" (a dowry or bride price) has been paid, the

bride essentially becomes the property of the man and his family, and will be entitled to little or nothing if the marriage breaks down.<sup>328</sup>

The inconsistencies between statutory and customary law are important to recognise

because, even if Zambia's government is able to bring its statutory legislation in line with the CRC and other international human rights instruments concerning CSEC, it will have to address the issue under customary law as well.

## Prostitution of children

According to Article 2(b) of the *Optional Protocol on the sale of children, child prostitution and child pornography* (OPSC), child prostitution is “the use of a child in sexual activities for remuneration or any other form of consideration.”<sup>329</sup> This definition covers all acts of offering, obtaining, procuring or providing a child for child prostitution.<sup>330</sup>

Section 140 of the *Zambian Penal Code* makes it an offence to procure or attempt to procure a child to have unlawful carnal knowledge of the child,<sup>331</sup> to make the child a common prostitute,<sup>332</sup> or to make the child an inmate of or frequent a brothel.<sup>333</sup> Importantly, the section has extraterritorial effect and makes it an offence to procure or attempt to procure a child whether the child's destination is within Zambia or elsewhere. If convicted of an offence under this section, the offender is liable to imprisonment for a term of not less than twenty years and may be liable to life imprisonment.<sup>334</sup>

Section 144(1) of the *Penal Code* further criminalises detention of children in a brothel or in any premises with intent that the child may be unlawfully and carnally known by any third person.<sup>335</sup> Section 147(1) of the *Penal Code* makes a number of acts related to prostitution an offence including the living off earnings of the prostitution of another; the control, direction or influence of the movements of a prostitute for the purpose of gain; and the aiding, abetting or compelling of a person's prostitution. Section 147(2) states that a person who *compels* a child to become a prostitute commits an offence and is liable, upon conviction, to imprisonment

for life.<sup>336</sup>

Despite these provisions, the *Penal Code* criminalises prostitution itself in Section 146(1)(b), stating that “a person, who in any public place, persistently solicits or importunes for immoral purposes; commits a felony and is liable, upon conviction, to imprisonment for a term not exceeding fifteen years.” While this provision does differentiate between punishments for adults and punishments for children – “a child who commits an offence under this subsection is liable to such community service or counselling as the court may determine in the best interests of the child”<sup>337</sup> – this is not enough to comply with international standards. According to CHIN, “deliberate steps must be taken to avoid criminalisation of children involved in prostitution; children must always be treated as victims and not offenders when found to have been involved in prostitution or other forms of commercial sexual exploitation.”<sup>338</sup>

Other provisions related to prostitution apply only up to the age of 16 years.<sup>339</sup> The *Juveniles Act* criminalises causing or encouraging the seduction, unlawful knowledge, or prostitution of *girls* under the age of 16 or allowing any person, male or female, under the age of 16 to enter brothels.<sup>340</sup> Section 47(1) of Cap 53 of the *Juveniles Act* states that “If any person having the custody, charge or care of a girl under the age of sixteen years causes or encourages the seduction, unlawful carnal knowledge, or prostitution of, or the commission of an indecent assault upon her, he shall be liable to

imprisonment for a term not exceeding two years.”<sup>341</sup>

Zambia ratified ILO Conventions No. 182 and No. 138 in 2001.<sup>342</sup> In 2004, the government attempted to amend the *Employment of Young Persons and Children Act* (EYPC) to bring it in line with ILO Conventions No. 138 and No. 182.<sup>343</sup> Under the EYPC, the minimum age for employment is 15 and for hazardous work it is 18,<sup>344</sup> which is in line with ILO Convention No. 138.<sup>345</sup> The EYPC

specifically prohibits the worst forms of child labour, including child prostitution, slavery, forced military recruitment of children, and work harmful to the safety, health or morals of children and young people.<sup>346</sup> This harmonisation was not accomplished in full, as the age provided in the definition of a child under the EYPC was changed from 14 years old to 15 years old, which still does not comply with Article 2 of ILO Convention No. 182 which defines a child as all persons under the age of 18.<sup>347</sup>

## Trafficking in children for sexual purposes

Under Article 3(a) of the *UN Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children* (UN Trafficking Protocol), trafficking in persons is defined as the “recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payment or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”<sup>348</sup>

Article 3(c) of the *UN Trafficking Protocol* states that “the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered ‘trafficking in persons’ even if this does not involve any of the means set forth in subparagraph (a) of this article.”<sup>349</sup> Within this definition, a child is considered anyone under the age of 18 years.<sup>350</sup>

Zambia’s Constitution prohibits the trafficking of young people, defined as persons less than 15 years of age,<sup>351</sup> as well as

slavery and servitude.<sup>352</sup> It does not, however, specifically address trafficking of children. Zambia’s Draft Constitution Bill provides that every child has a right to protection from all forms of sexual exploitation or abuse;<sup>353</sup> however, this Draft has yet to be approved.

There are “anti-trafficking” provisions contained in the *Employment of Young Persons and Children (Amendment) Act 2004*, which was brought into line with ILO Convention No. 182.<sup>354</sup> Specifically, the amended sections 4B and 17B prohibit children and young persons from being employed in worst forms of child labour.<sup>355</sup> The Act prohibits trafficking of children, slavery, slavery-like activities and the use of children in harmful activities such as prostitution and pornography.<sup>356</sup> However, key terms such as “trafficking” and “slavery” are not defined.<sup>357</sup>

Importantly, Zambia’s *Penal Code* was amended by the *Penal Code (Amendment) Act No.2 of 2011* and Section 143, which criminalised child trafficking, was repealed.<sup>358</sup> This could have been to avoid confusion with the *Anti Human Trafficking Act*, which came into force in 2008. The *Penal Code* does contain a number of provisions that can be used to prosecute traffickers for a range of acts in connection with the trafficking of children.<sup>359</sup> These provisions address: procurement for prostitution,<sup>360</sup> procuring

defilement by threats or fraud,<sup>361</sup> detention with intent in premises or brothel,<sup>362</sup> living on earnings of prostitution,<sup>363</sup> child pornography,<sup>364</sup> kidnapping/abduction,<sup>365</sup> slavery,<sup>366</sup> abduction for slavery,<sup>367</sup> “dealing in slaves,”<sup>368</sup> forced labour,<sup>369</sup> abduction for sexual purposes,<sup>370</sup> “threatening violence,”<sup>371</sup> as well as numerous prostitution-related offences.<sup>372</sup>

Zambia became a State Party to the *UN Trafficking Protocol* in 2005.<sup>373</sup> In an attempt to bring Zambia’s legal framework in line with the *UN Trafficking Protocol*, Zambia introduced the *Anti-Human Trafficking Act* (No. 11 of 2008), which defines a “child” as a person under the age of eighteen years,<sup>374</sup> criminalises human trafficking, and prescribes penalties that range from 20 years to life imprisonment.<sup>375</sup> However, the Act requires the use of threat, force, intimidation, or other forms of coercion for a child to be considered a sex trafficking victim.<sup>376</sup> The Act defines trafficking as “means to recruit, transport, transfer, harbour, receive or obtain a person, within or across the territorial boundaries of Zambia, by means of (a) any threat or use of force or other forms of coercion; (b) abduction; (c) fraud or deception; (f) the abuse or threatened abuse of the law or legal process or any other form of abuse of power or of a position of vulnerability; or (g) the giving or receiving of payments or benefits to achieve the consent of the person; for the purpose of exploitation.”<sup>377</sup> It also defines sexual exploitation as “the participation of a person in prostitution or other sexual acts, or the production of pornographic material as a result of being subjected to threat, force, intimidation or other forms of coercion or any other practice in terms of which it cannot be said that the person participated voluntarily.”<sup>378</sup>

Furthermore, Section 22 of the *Anti-Human Trafficking Act* provides that when determining whether a person is a victim, all the circumstances of the particular case shall be taken into account, including: (a) whether

the person is in an exploitative situation through one or more of the following means: (i) violence, force, coercion, intimidation or threats.<sup>379</sup> With regard to the trafficking of children, this appears to be contrary to Article 3 of the *UN Trafficking Protocol* which states that the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered trafficking in persons even if it does not involve coercion, abduction, fraud, deception, the abuse of power or of a position of vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person.<sup>380</sup>

The *Anti-Trafficking Act* states that “child labour” includes all forms of slavery or practices similar to slavery such as the sale of a child and trafficking of a child for the purpose of engaging the child in work away from home and from the care of the child’s family, in circumstances within which the child is exploited.<sup>381</sup>

Among other things, the *Anti-Human Trafficking Act* specifically provides that “it shall not be a defence to a charge for an offence under this Act to prove that the act constituting the offence is a customary practice,” which is intended to address the challenge of Zambia’s parallel legal system.<sup>382</sup>

Zambia’s *Anti-Human Trafficking Act* also obligates Internet Service Providers (ISPs) to report information they discover on any forms of trafficking. An ISP in Zambia that becomes aware of any site on its server that contains information in contravention of Section 7(1)(c) shall report it to the police.<sup>383</sup> Section 7(1)(c) states that a person who advertises, publishes, prints, broadcasts, distributes or causes the advertisement, publication, printing, broadcast or distribution of information that suggests or alludes to trafficking by any means, including the use of the Internet or other information technology; commits an offence

and is liable, upon conviction, to the same penalties as if the person had been convicted of the offence.<sup>384</sup> An ISP that fails to comply with these provisions commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a term not

exceeding three years, or to both.<sup>385</sup>

In 2010, the government also amended its *Immigration Act*, adding additional prohibitions against human trafficking;<sup>386</sup> however, none of these prohibitions specifically addressed children.

## Prosecutions and convictions

In 2011, the government prosecuted four suspected trafficking offenders, but so far these have not led to any convictions (one case led to an acquittal and three remain ongoing).<sup>387</sup>

In 2012, the government initiated prosecution of five suspected trafficking offenders and continued institutional training which reached 119 officials.<sup>388</sup> In addition, the government reported its conviction of an offender in a potential trafficking case.<sup>389</sup> In August 2012, the government sentenced a convicted offender to 25 years imprisonment under the *Anti-Trafficking Act* for involvement in transporting a child to the DRC for the purposes of exploitation.<sup>390</sup> Two additional cases under prosecution involved women and girls from neighbouring countries brought to Zambia for domestic servitude and sexual exploitation, with another two prosecutions involving Zambian children intercepted en route to South Africa or Europe for similar purposes.<sup>391</sup>

In 2012, the government completed development of a database to monitor trafficking case data and Zambian police intake forms were revised to include human

trafficking and gender-based violence and were distributed to all police stations in Zambia.<sup>392</sup>

## Child pornography / child sexual abuse materials

The OPSC defines child pornography as “any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes” and Article 3(1)(c) prohibits producing, distributing, disseminating, importing, exporting, offering, selling or possessing child pornography.<sup>393</sup>

Zambia’s law criminalises child pornography under *Penal Code* Section 177A(1), stating that any person who engages a child or other person – (a) in a pornographic performance; (b) in the production of a pornographic film or other material; or (c) in a pornographic activity of any nature; commits an offence

and is liable, upon conviction, to a term of imprisonment of not less than fifteen years and may be liable to imprisonment for life.<sup>394</sup> Section 177A(2) states that any person who – (a) sells *or gives* (as amended by the *Penal Code Amendment Act No.2 of 2011*) pornographic material to a child; (b) compels, *invites or allows* (as amended by the *Penal Code Amendment Act No.2 of 2011*) a child to watch a pornographic film or view pornography on the internet or elsewhere or in any form intended to corrupt a child’s morals; commits an offence and is liable, upon conviction, to a term of imprisonment of not less than fifteen years.<sup>395</sup> A child who violates subsection (2) is subject to community service or counselling as the court

may determine in the best interests of the child.<sup>396</sup>

Despite this specific legislation, “procurement” for pornography is not criminalised;<sup>397</sup> child pornography itself is not defined; the legislation does not address computer-facilitated offences;<sup>398</sup> does not criminalise mere possession; and unlike Zambia’s *Anti-Human Trafficking Act* which obligates ISPs to report information they discover on any forms of trafficking, does not make ISP reporting mandatory.<sup>399</sup> Moreover, the law by definition is limited to children

under the age of 16, which leaves 16 and 17 year olds unprotected.<sup>400</sup>

Section 102 of the *Electronic Communications and Transaction Act 2009* prohibits the transmission of pornography through a computer system.<sup>401</sup> As the definition of a computer system is broad enough to include smart phones,<sup>402</sup> “sexting” images – personal images or videos of a sexual nature distributed through a mobile texting service, usually by young people – fall within the scope of Section 102.

## Sexual exploitation of children in travel and tourism

While there is no specific legislation in Zambia addressing the sexual exploitation of children in tourism, there are legal provisions that are relevant to the issue, including laws on extra-territorial jurisdiction, extradition and dual criminality.

Article 4.1 of the OPSC addresses “territorial jurisdiction” and provides that each State Party should take measures to establish jurisdiction over offences committed in its territory.<sup>403</sup> Article 4 of the OPSC also addresses the importance of establishing jurisdiction over offences committed against children outside one’s own country.<sup>404</sup>

Zambia has a general extra-territorial provision allowing courts to exercise jurisdiction over its nationals (Zambian citizens only) who do any act outside Zambia, which, if wholly done within Zambia, would be an offence under the *Penal Code*.<sup>405</sup>

Under this law, for example, a Zambian trafficker who took a victim into another country and assaulted or sexually violated the victim there, illegally detained or confined the victim, sold the victim “as a slave,” or lived off prostitution earnings, could be

prosecuted for these crimes in Zambia.<sup>406</sup> Zambia also extends jurisdiction to offences committed “partly within and partly beyond the jurisdiction.”<sup>407</sup> In such a case, the courts may reach “any person who within Zambia does any part of such act, as if such act had been wholly done within Zambia.”<sup>408</sup>

This law, however, still places limits on Zambia’s jurisdiction. It is not broad enough to cover non-citizens (even ordinary residents or refugees living in Zambia) or non-resident foreigners — even if the victim is Zambian — unless it can be shown that the crime was committed by that person partly within the jurisdiction.<sup>409</sup> So, for example, a non-Zambian brothel owner or “middle-man” who bought, sold, transported or exploited a Zambian wholly outside the jurisdiction would probably not be prosecutable in Zambia.<sup>410</sup>

Zambia’s *Anti-Human Trafficking Act* provides that a court in Zambia shall have jurisdiction in respect of an act committed outside Zambia, which would have constituted an offence in terms of this Act had it been committed within Zambia. This is irrespective of whether the act constitutes an offence at the place of its commission in the

following two scenarios: First, if the person to be charged (i) is a citizen of Zambia, (ii) is ordinarily a resident in Zambia, (iii) was arrested in the territory of Zambia, or (iv) is a person or a partnership registered in terms of any law in Zambia; or second, if the victim is a citizen of Zambia.<sup>411</sup>

The *Zambian Extradition Act* governs extradition to and from Zambia.<sup>412</sup> The Act includes extradition provisions for both Commonwealth countries (Part III) and foreign countries (Part II).<sup>413</sup> In order for the *Extradition Act* to apply to foreign countries, Zambia must have entered into an “extradition agreement” with that country.<sup>414</sup> Application of the Act to Commonwealth countries requires a Presidential designation by “statutory order.”<sup>415</sup>

In relation to Commonwealth countries, an “extraditable offence” is defined in Sections 17 and 25 of the *Extradition Act* as an

offence having a maximum penalty of death or imprisonment for not less than twelve months; the acts that would constitute an offence in Zambia are described in the First Schedule.<sup>416</sup> Offences relevant to CSEC victims include: procuring, or trafficking in, women or young persons for immoral purposes; kidnapping, abduction or false imprisonment; dealing in slaves; unlawful sexual intercourse with a female; and indecent assault.<sup>417</sup> Attempting, aiding, abetting, conspiring, counselling, and procuring to commit a listed offence are also included as extraditable offences.<sup>418</sup> In relation to foreign countries, extraditable offences are only those that are punishable by both Zambia and the requesting country by a sentence of not less than one year.<sup>419</sup> This requirement for dual criminality may pose a significant obstacle to the prosecution of travelling child sex offenders due to the lack of uniformity in legal protections for children worldwide.<sup>420</sup>

## Child protection units

The Draft Constitution of Zambia Bill 2012 addresses elements of child protection in Article 55(6), stating that children living or who spend time on the streets are entitled to the special protection of the State and society.<sup>421</sup>

Under the Child Protection Programme, the Ministry of Home Affairs has established Zambia Police Service (ZPS) Child Protection Unit (CPU) which enforces labour-related trafficking laws.<sup>422</sup> Specifically, the CPU works with MLSS<sup>423</sup> officials to identify and remove vulnerable children from the streets.<sup>424</sup> The ZPS also runs the Victim Support Unit (VSU) for victims of trafficking.<sup>425</sup> The ZPS VSU handles the enforcement of laws against trafficking, commercial sexual exploitation and/or use of children in illicit activities.<sup>426</sup>

Under the same Child Protection Programme, the MCDSS has put in place

23 District Child Protection Committees.<sup>427</sup> In the Chililabombwe District, the Child Protection Committee has undergone various projects such as street mapping; night time roundup of children with street connections; family counselling; school reintegration and support; family empowerment through entrepreneurship skill development programmes; and monitoring and evaluation of these activities.<sup>428</sup>

In the past, some District Child Protection Committees have had problems using their allocated resources efficiently and it has also been reported that some Committees have found it difficult to make themselves known to the general public, limiting outreach to children in need.<sup>429</sup> In 2011, the Minister of Community Development and Social Services stated in an address to Parliament that the Ministry was in the process of expanding the presence of District Child Protection Committees to all 74 districts of

the country, but that this was “an on-going exercise that is dependent on resources.”<sup>430</sup>

In 2009, it was reported that a vice squad was established in the National Police Service to deal with the commercial sexual exploitation

of children.<sup>431</sup> According to CHIN, the Service worked with their organisation while it had funding for activities; however, most of the Service’s staff was transferred, affecting much of the work that was being done.

## Support services for children

Strategies for the recovery and reintegration of victims of CSEC should contain immediate and long-term policies. Immediate support services could include medical and psychological care, and provision of adequate shelter and legal assistance. Long-term assistance could include reintegration into school, return to the family or community when possible, and concrete plans for social and economic rehabilitation and reintegration. In relation to child victims who have been trafficked into Zambia from other countries, it is important to have specific procedures in place that are in the best interests of the child, such as access to care and repatriation.

Article 39 of the CRC requires States to take all appropriate measures to promote physical and psychological recovery and social reintegration of child victims of any form of neglect, abuse or exploitation. Article 9 of the OPSC further recognises the right of victims to assistance in achieving social reintegration and full physical and psychological recovery.

Zambia has a Victim Support Unit (VSU), which was established as part of the Access to Justice Programme.<sup>432</sup> The VSU aims to protect vulnerable members of society against crime by enhancing crime prevention and investigation mechanisms, as well as intensifying awareness raising programmes for police officers and the public to promote the rights of vulnerable persons.<sup>433</sup> The role of the VSU is to provide professional counselling to victims of crime and to protect citizens from various forms of abuse.<sup>434</sup> The VSU focuses primarily on property grabbing, domestic violence, and sexual abuse of

women and children, and not on CSEC.<sup>435</sup> The VSU reportedly provides some limited rehabilitation programmes for women victims of trafficking and forced prostitution, but nothing specifically for child victims.<sup>436</sup>

According to a 2007 ILO study on the reintegration of child trafficking victims in Zambia, law enforcement agencies, such as the police and immigration authorities, are very rarely involved in the process of children returning home, partly due to the inadequate training of law enforcement officers on child trafficking issues.<sup>437</sup> The study also found there to be high levels of stigma associated with victims of child trafficking, making it harder for children to reintegrate into their communities. Zambia has a few facilities that provide care for trafficking victims; however, the participants of the study were not aware of these facilities.<sup>438</sup>

The Zambian government faces significant challenges in the area of support services for children. There are several factors that limit and hinder access to legal protection for CSEC victims. These include: poor capacity of those responsible for enforcement; limited community, parental and child awareness of their rights and mechanisms of protection; entrenched discriminatory attitudes of some police and judiciary bodies; social pressure to withdraw cases and reconcile with abusers; and very limited access to legal aid.<sup>439</sup> Efforts are needed to strengthen the implementation of statutory law and improve services intended to support victims.<sup>440</sup>

In 2012 the government worked to increase the availability of shelter options

for victims,<sup>441</sup> however, Zambia has a continued shortage of adequate shelters for trafficking victims, which has resulted in victims being jailed.<sup>442</sup> Additionally, the government continues to rely on international organisations and local NGOs to provide the majority of victim care, without affording any direct financial assistance to these organisations.<sup>443</sup>

Under the UNICEF OVC Care and Support

project, part of UNICEF's Child Protection and Empowerment programme, 13 District Childcare and Protection Committees (DCPCs) were established and guidelines developed to coordinate and respond to the needs of vulnerable children at the community level.<sup>444</sup> The capacity of 325 DCPC members was strengthened in the areas of minimum standards of care, basic qualifications in childcare and psycho-social counselling.<sup>445</sup>

### Foreign child victims of trafficking

When foreign children are found trafficked into Zambia, immigration officers have stated that they hand them over to the International Organization for Migration (IOM) for repatriation. However, in one high profile trafficking case, repatriation was carried out after the children had been subjected to harsh treatment by law enforcement officers. In this case, three Afghan children were stopped from leaving Lusaka Airport when it was discovered that they were travelling with fake documents. Traffickers (a Zambian and a Pakistani) had brought them into Zambia and intended to take them to either the United Kingdom or the United States. Immigration officials held the children in prison for a number of days before it was established that they were trafficking victims. The law enforcement agencies did not, as a first step, seek to establish whether or not the children were victims of trafficking.<sup>446</sup>

Zambian law provides certain support services for foreign child victims of trafficking through the *Anti-Human Trafficking Act*. Section 31(1) of the Act provides that a child who is a victim of trafficking may be placed in temporary safe care, pending an investigation.<sup>447</sup> If an undocumented ("illegal") foreign child trafficking victim is brought before a court, the court may order that the child be assisted in applying for asylum.<sup>448</sup> If it is determined that such a child is in need of care and protection, this shall serve as authorisation for the child to remain in Zambia for the duration of the child's court order.<sup>449</sup> The summary deportation of a trafficking victim is prohibited.<sup>450</sup>

The Chief Immigration Officer may allow a foreign child trafficking victim to remain in Zambia for a non-renewable period not

exceeding sixty days, provided that they are placed in the care of a social worker or any other person, organisation or institution so authorised.<sup>451</sup> Once this occurs, a visitor's permit may be issued to the child.<sup>452</sup> Foreign trafficking victims may apply for permanent residence status after five years continuous residence in Zambia provided that they prove to the satisfaction of the Chief Immigration Officer that they may be harmed, killed or trafficked again if returned to their country of origin or the country from where they were trafficked.<sup>453</sup>

IOM Zambia offers direct assistance to victims of trafficking by providing secure accommodation, medical and psychosocial support, skills development and vocational training, legal assistance, reintegration assistance, and the option of voluntary,

safe and dignified return to countries of origin.<sup>454</sup> IOM Zambia's Counter-Trafficking Assistance Programme offers help and direct assistance to victims of human trafficking, including shelter, medical and psycho-social services, legal services and assisted return.<sup>455</sup>

Following consultations with 60 stakeholders the Zambian government, in partnership with the United Nations Joint Programme on Human Trafficking, launched the *Minimum Standard Guidelines on Protection of Victims of Trafficking* in October 2012.<sup>456</sup> The Guidelines, which were based on the provisions in the *Anti-Trafficking Act*, establish the minimum care provisions to be provided to victims.<sup>457</sup> The government finished distributing the manual in all provinces by early 2013 and trained 148

service providers, including social welfare and immigration officials, on its provisions.<sup>458</sup>

There is still no system in place in Zambia to provide support services to children who are victims of online sexual exploitation. Although Zambia currently has a low internet penetration rate, mobile network expansion is going to be a key ICT driver in the country, and there is a need for support services to be put in place as early as possible to effectively protect children from exploitation.

In 2012, the government also finalised its national referral mechanism.<sup>459</sup> However, the formal procedures for victim identification have yet to be implemented.<sup>460</sup>

## Training law enforcement personnel

In order to effectively enforce the laws and policies preventing and prohibiting CSEC, it is essential that Zambia has well trained law enforcement officials, knowledgeable of children's rights issues and child protection mechanisms.

Specific anti-trafficking training is included in all law enforcement courses at Zambia's police training academy.<sup>461</sup> The trainings cover the provisions of the *Anti-Trafficking Act*, investigation techniques, identification of victims, and protection of victims and witnesses.<sup>462</sup> Trainings have been carried out by Zambian officials and IOM trainers,<sup>463</sup> and IOM and the Law Enforcement Expert Group have collaborated to develop a handbook on the *Anti Human Trafficking Act 2008*. In 2012, IOM conducted a training of trainers for law enforcement officers in Zambia, using the newly developed handbook.<sup>464</sup> The five-day training was designed to provide participants with the necessary skills to train other law

enforcement officers on how to implement Zambia's anti-human trafficking law.<sup>465</sup> The course focused on the need for sensitivity in dealing with victims of human trafficking.<sup>466</sup> Eighteen law enforcement officers from the Zambian Police, the Department of Immigration, the Ministry of Home Affairs Research and Planning Unit and various government departments attended.<sup>467</sup> It is unclear how much, if any, of this training focused on the trafficking of children for sexual purposes.

In September 2010, eight police officers from the National Police Services in Malawi, Mozambique and Zambia travelled to Toronto for Kinsa training and to discuss Kinsa's ongoing efforts to build capacity in Africa.<sup>468</sup> Kinsa trains police officers worldwide to protect and rescue child victims and capture the offenders who trade child sexual abuse images and videos on the Internet.<sup>469</sup>

## CHILD AND YOUTH PARTICIPATION

Article 12(1) of the CRC assures children the right to express their own views in all matters affecting them.<sup>470</sup>

The current Constitution of Zambia does not provide for the fundamental right to information and participation of children in matters that affect them.<sup>471</sup> Article 55(5)(o) of Zambia's Draft Constitution states that every child has a right to know of decisions affecting that child, to express an opinion and have that opinion taken into account, having regard to the age and maturity of the child and the nature of the decision.<sup>472</sup> This addition in Zambia's Draft Constitution is an important step towards improved child participation.

According to international and national NGOs working in Zambia, cultural beliefs and practices have been identified as playing a significant role in undermining child participation initiatives, nationally as well as locally.<sup>473</sup> The belief that children have secondary status and should adhere to the authority of parents and adults has permeated legal and political systems, as well as community and familial structures.<sup>474</sup> Children have little opportunity to express their opinions and to participate in decision making in households, at school or in the community.<sup>475</sup> Practices around upbringing and education often teach children (especially girls) to keep quiet, not to express themselves for fear of ridicule, and to show respect for adults through unquestioning compliance.<sup>476</sup> This was 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 Child.<sup>477</sup>

According to NGOs working in Zambia,

although Zambia has ratified both the CRC and the *African Charter on the Rights and Welfare of the Child*, its legal framework provides limited opportunity for any meaningful engagement from citizens generally, and specifically from children.<sup>478</sup> 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; and (iii) the absence of mechanisms to enable citizens of any age to participate in public life.<sup>479</sup>

Each year on the Day of the African Child, a Youth Parliament is held which offers children an opportunity to participate in matters of the nation.<sup>480</sup> Resolutions made by the children at this Youth Parliament Forum are presented to the President in an effort to influence policy.<sup>481</sup> Upon the establishment of the Youth Parliament, the UN Committee on the Status of Children recommended that Zambia develop a systematic approach to increase public awareness of the importance of child participation in matters affecting them.<sup>482</sup> This systematic approach is not yet in place.<sup>483</sup>

According to a 2010 regional study of children's participation, although Zambia has adopted the National Child Policy (up to 14 years old), the National Youth Policy (ages 15-25) and the National Plan of Action for Children, no official policies exist that promote awareness of, and respect for, the principle of respecting children's views.<sup>484</sup> The encouragement and emphasis on child participation has mainly been left up to civil society organisations in Zambia, rather than the state.<sup>485</sup>

The functioning of the Children's Rights

Committee<sup>486</sup> has been hampered by inadequate access to resources and despite promises, a National Youth Council and National Children's Council has still not been put into effect.<sup>487</sup> In response to the ineffective operation of the Children's Rights Committee, the government appointed a Child Rights Commissioner, to independently monitor children's rights in the country.<sup>488</sup> Civil society organisations have been critical of this practice and continue to advocate government to develop guidelines for mainstreaming child participation at all levels and to utilise these structures for promoting child participation in governance.<sup>489</sup>

Community Child Rights Groups (CCRGs) were initiated in 2005 by the African Network for the Prevention and Protection Against Child Abuse and Neglect.<sup>490</sup> CCRGs are school and community-based child-led initiatives that focus on generating evidence to support child participation.<sup>491</sup> They are located in six communities and six schools within the Kasama and Chinsali districts.<sup>492</sup> Children participating in these groups are between 9-18 years of age.<sup>493</sup> In addition to managing these child-led groups, children are represented at district and community child protection units.<sup>494</sup>

Child Rights Clubs are run by the Zambia Civic Education Association and are a means for children to gain knowledge and skills relating to children's rights as well as enable children to advocate for the fulfilment of those rights.<sup>495</sup> These Child Rights Clubs, established in 2009, involve boys and girls between 7-19 years of age.<sup>496</sup> The Clubs provide a platform for children to talk about their rights and to share their experiences.<sup>497</sup>

Based on the information gathered by the child participation study, children in these Clubs are able to engage civil society leaders as well as government and parliamentary officials.<sup>498</sup> For example, children addressed

Parliament regarding traditional practices that are harmful to them and also met with the House of Chiefs to discuss the issue of early marriages and child labour.<sup>499</sup> The Clubs also offer children the opportunity to develop advocacy strategies around issues that they feel are most critical to them.<sup>500</sup> Some children were involved in a 13 series radio programme, which involved talking about issues affecting them.<sup>501</sup>

The Media Network on Child Rights and Development (MNCRD) works with Media Monitoring Africa to provide children with journalism skills to write to media and radio stations about issues that affect them.<sup>502</sup> This project started in Lusaka in 2009 and the plan was to expand the project to rural districts in 2010.<sup>503</sup> Currently, MNCRD has expanded to several more districts, but it has yet to expand to rural areas. It does work with other organisations that are rurally based and help to reach children in rural areas. For example, the child journalists have done work in Petauke, a rural district in the Eastern province.<sup>504</sup>

The initiative is fully implemented by boys and girls between 12-16 years of age.<sup>505</sup> The programme equips children with skills to monitor and examine the issues being covered by the media.<sup>506</sup> Programmes are run through the Children's News Agency and the Children's Media Monitoring Project.<sup>507</sup> The children also meet with editors to discuss the importance of ensuring children's issues and children's representation and involvement in media.<sup>508</sup> Children have contributed articles on issues such as corporal punishment and child marriage and have met with parliamentarians to raise awareness of the negative impact of early child marriages, from their perspective.<sup>509</sup> Some children in the study expressed frustration that adults sometimes take over the projects and, as a result, many children have withdrawn their participation.<sup>510</sup>

# PRIORITY ACTIONS REQUIRED



## National plans of action

- Develop and implement an up to date National Plan of Action (NPA) for Children, which includes a comprehensive and detailed component on CSEC, addressing all manifestations. A NPA for Children should be sufficiently resourced, with clear coordination and monitoring to ensure effectiveness and impact.
- Continue supporting the mapping of organisations working on child marriage issues and prioritise the development of a national strategy on child marriage, which includes addressing the role of customary law in this traditional practice.

## Coordination and cooperation

- Ensure the coordination and cooperation among all Ministries involved in the child protection programme/system, the police, specialised civil society organisations and community and religious leaders, so as to deliver targeted services to children in street situations.<sup>511</sup>
- Implement the findings of the Child Protection Mapping System by developing a Child Protection Policy.
- In addition to the database to track trafficking case data, a database and data collection system should be established on child protection,<sup>512</sup> including the areas of child pornography, child prostitution and the sexual exploitation of children in tourism.

## Prevention

- Collect and regularly update data – disaggregated by sex, age, ethnicity and relevant characteristics – concerning children in street situations at the local level so as to aid in the efficient running of present and future child protection programmes.<sup>513</sup>
- The refinement and harmonisation of customary and statutory laws of marriage should be a priority. The age of consent to sex and parental consent to marriage should be raised to 18 years.<sup>514</sup>

- ✎ While awareness-raising campaigns have been carried out in Zambia addressing the issue of human trafficking, there should be a greater emphasis put on child trafficking for sexual purposes specifically, as well as an effort to include children in these campaigns. Additionally, awareness raising on the topics of child pornography and child prostitution should be carried out.
- ✎ The amendment to Zambia's *Education Act* in 2011 providing compulsory school attendance for children in basic education and instituting a ban on marrying a school-going child were important steps in the fight against CSEC, as they help to reduce/prevent child vulnerability. To continue the improvement of children's access to education, Zambia should promote – through policy-making and awareness campaigns – the importance of secondary education, especially among girls.

## Protection

- ✎ Zambia has at least 26 pieces of legislation that provide for and regulate the rights of children. The legislation is contradictory as, *inter alia*, each law has its own definition of a child. Therefore, in order to prevent contradictory and ineffective legislation on child protection, it is vital that Zambia prioritise the harmonisation of its national legislation with the CRC. This includes establishing a definition of the child in accordance with Article 1 of the CRC. To achieve this, Zambia's Draft Child Code Bill should be approved and implemented.
- ✎ Implement the 2008 *Anti-Trafficking Act* by ensuring the use of a broad definition of human trafficking that does not rely on evidence of movement, but rather focuses on exploitation; amend the trafficking law so that force, fraud, or coercion are not required for cases involving children under the age of 18 to be considered sex trafficking crimes; and staff and convene the National Committee, as required by the 2008 *Anti-Trafficking Act*.<sup>515</sup>
- ✎ The Government of Zambia needs to domesticate its commitments to international conventions into a strong legal framework that protects children, and supports necessary social change. A review of all legislation that affects children should inform government on the changes required. To be effective however, this must include not only statutory law but also a review and revision of the role of customary law in children's lives, and the inconsistencies with statutory and customary rights. Moves by the judiciary towards developing guidelines for customary law are important in this respect.<sup>516</sup> In addition, the development of a platform for regular dialogue, debate and education around traditional practices and customs is recommended as a first step towards harmonising customary law with national and international law.<sup>517</sup>

- ✎ The Zambian Law Development Commission conducted an extensive consultative review of customary law in relation to its impact on women's rights. There should be a similar review in respect of children's rights.<sup>518</sup>
- ✎ In an effort to harmonise Zambia's national legislation with that of the CRC, as well as to address inconsistencies with customary law and provide more protection for children and victims of CSEC in particular, Zambia's Draft Constitution should be approved and implemented. The comprehensive review of Zambia's *Penal Code* should be completed and the provisions implemented.
- ✎ Zambia should ratify the OPSC in order to provide effective and comprehensive protection to all its children, especially the most vulnerable.

### Recovery and reintegration

- ✎ Recovery and integration programmes need to be substituted for the criminalisation of children in prostitution<sup>519</sup> in order to ensure that it is the exploiters who are criminalised and not the victims.
- ✎ The government should ensure that after vulnerable children are finished with programmes like the National Service Camps, they have the opportunity to find employment and put the skills they learned to use and not return to the streets.
- ✎ It is vital that law enforcement officials are trained how to handle cases related to CSEC, not just child trafficking, and that the necessary distinction in treatment between adult and child victims is highlighted.
- ✎ An audit of response services to CSEC victims is needed to establish whether there are sufficient resources to deal with current and future demands, and to identify specific gaps in national child protection services.<sup>520</sup>

- ✎ In order to better support child participation, there should be an increase in networking, partnering and sharing good practices.<sup>521</sup>
- ✎ Resources should be provided to extend and sustain child participation initiatives including: providing opportunities for further research that gives insight into child participation, e.g. situational analyses and documentation of child participation processes; and supporting the creation of child-friendly spaces that are conducive for children to meet at and utilise as a resource.<sup>522</sup>
- ✎ Provide support for the translation of policies and information into local languages and research cultural attitudes and practices that support child participation.<sup>523</sup>
- ✎ Develop training tools and methodologies for working with children.<sup>524</sup>
- ✎ Zambia should develop a systematic approach to increase public awareness of the participation of children in matters affecting them.
- ✎ Finalise and implement the National Youth Council and National Children's Council to give children in Zambia a platform from which to share their opinions in matters affecting them.

# ANNEX

## The Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents\*

*Note: This is a condensed version. The full Rio Declaration and Call to Action also contains: Preamble; A. Review of progress and outstanding challenges; and B. Declaration.*

### C. Call for Action

We call on all States, with the support of international organizations and civil society, including NGOs, the private sector, adolescents and young people to establish and implement robust frameworks for the protection of children and adolescents from all forms of sexual exploitation, and we call upon them to:

#### I - International and Regional Instruments

- (1) Continue working towards ratification of relevant international instruments, including as appropriate the United Nations Convention on the Rights of the Child and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, ILO Convention 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and the Convention on the Elimination of All Forms of Discrimination against Women.
- (2) Continue working towards ratification of relevant regional instruments, including as appropriate the African Charter on the Rights and Welfare of the Child, the ASEAN Charter,

the Inter-American Conventions on International Traffic in Minors and on the Prevention, Punishment and Eradication of Violence against Women, the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, and the Council of Europe Conventions on Action against Trafficking in Human Beings, on Cybercrime and on the Protection of Children against Sexual Exploitation and Sexual Abuse, conventions which can be ratified by States that are non-members of the Council of Europe.

- (3) State Parties should take all necessary measures to implement the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, taking into due accounts the conclusions and the recommendations of the Committee on the Rights of the Child in the context of its review of State Parties' reports. All countries are encouraged to use this as an important reference.

#### II – Forms of Sexual Exploitation and its New Scenarios

*Child pornography/child abuse images*

- (4) Criminalize the intentional production, distribution, receipt and possession of child pornography, including virtual

\* The Rio de Janeiro Declaration and Call for Action to Prevent and Stop Sexual Exploitation of Children and Adolescents (2008), full text available at: [http://www.ecpat.net/WorldCongressIII/PDF/Outcome/WCIII\\_Outcome\\_Document\\_Final.pdf](http://www.ecpat.net/WorldCongressIII/PDF/Outcome/WCIII_Outcome_Document_Final.pdf)

images and the sexually exploitative representation of children, as well as the intentional consumption, access and viewing of such materials where there has been no physical contact with a child; legal liability should be extended to entities such as corporations and companies in case the responsibility for or involvement in the production and/or dissemination of materials.

- (5) Undertake specific and targeted actions to prevent and stop child pornography and the use of the Internet and new technologies for the grooming of children into online and off-line abuse and for the production and dissemination of child pornography and other materials. Victim identification, support and care by specialized staff should be made a high priority.
- (6) Conduct educational and awareness-raising campaigns focusing on children, parents, teachers, youth organizations and others working with and for children with a view to improve their understanding of the risks of sexually exploitative use of the Internet, mobile telephones and other new technologies, including information for children on how to protect themselves, how to get help and to report incidences of child pornography and online sexual exploitation.
- (7) Take the necessary legislative measures to require Internet service providers, mobile phone companies, search engines and other relevant actors to report and remove child pornography websites and child sexual abuse images, and develop indicators to monitor results and enhance efforts.
- (8) Call upon Internet service providers, mobile phone companies, Internet cafes and other relevant actors to develop and

implement voluntary Codes of Conduct and other corporate social responsibility mechanisms together with the development of legal tools for enabling the adoption of child protection measures in these businesses.

- (9) Call upon financial institutions to undertake actions to trace and stop the flow of financial transactions undertaken through their services which facilitate access to child pornography.
- (10) Set up a common list of websites, under the auspices of Interpol, containing sexual abuse images, based on uniform standards, whose access will be blocked; the list has to be continuously updated, exchanged on international level, and be used by the provider to perform the access blocking.
- (11) Undertake research and development, in the realm of the private sector, of robust technologies to identify images taken with electronic digital devices and trace and retract them to help identify the perpetrators.
- (12) Promote public/private partnerships to enhance the research and development of robust technologies to investigate and to trace the victims with a view to immediately stop their exploitation and provide them with all the necessary support for full recovery.
- (13) Make technologies easily available, affordable and usable for parents and other caregivers, including to assist with the use of filters to block inappropriate and harmful images of children.

*Sexual exploitation of children and adolescents in prostitution*

- (14) Address the demand that leads to children being prostituted by making

the purchase of sex or any form of transaction to obtain sexual services from a child a criminal transaction under criminal law, even when the adult is unaware of the child's age.

- (15) Provide specialized and appropriate health care for children who have been exploited in prostitution, and support child centered local models of recovery, social work systems, realistic economic alternatives and cooperation among programmes for holistic response.

*Sexual exploitation of children and adolescents in travel and tourism.*

- (16) Encourage and support the tourism, travel and hotel sectors in adopting professional Codes of Conduct, for example by joining and implementing the Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism; encourage the use of businesses that put in place appropriate child protection-focused corporate social responsibility strategies; and/or provide other incentives for those participating.
- (17) Ensure that all stakeholders pay specific attention to unregulated tourism to prevent domestic and international travellers from sexually exploiting children and adolescents.
- (18) Cooperate in the establishment of an international travel notification system, such as the Interpol 'green notice' system, in accordance with applicable law and human rights standards.
- (19) Ensure investigation and, where sufficient evidence exists, that appropriate charges are brought and vigorously pursued against the State's nationals who are reported or alleged to have sexually exploited a child in a foreign country.

- (20) Prohibit the production and dissemination of material advertising the sexual exploitation of children in tourism; and alert travellers to criminal sanctions that will apply in cases of sexual exploitation of children.

- (21) Monitor new and emerging tourist destinations and establish proactive measures to work with private sector partners involved in the development of tourism services on measures to prevent the sexual exploitation of children and adolescents, including the use of socially and environmentally responsible strategies that promote equitable development.

*Trafficking and the sexual exploitation of children and adolescents*

- (22) Mobilize communities, including children and adolescents with a view to engaging them in dialogue on and a critical review of social norms and practices and economic and social conditions that make children vulnerable to trafficking, and establish procedures that involve them in developing strategies and programmes where they participate, where appropriate, in the planning, implementation and monitoring of such programmes.
- (23) Pilot and adapt or replicate successful models of community-based prevention and rehabilitation and reintegration programmes for child victims of trafficking.
- (24) Establish policies and programmes that address not only cross-border but also internal trafficking of children and that include, among other elements, a standard operating procedure for the safe repatriation and return of children based on the child's view and on a careful assessment of the needs and risks to the child of returning to her/his place of origin to ensure that the best interests of the child are taken into account.

- (25) Continue strengthening cross-border and internal cooperation of law enforcement officials, for example by establishing coordinating units with a mandate to issue clear guidelines for child centered investigation of cases of trafficking of children and for treating trafficked children not as criminals but as victims in need of protection.
- (26) Take legislative and other measures to ensure that a guardian is appointed without delay for every unaccompanied trafficked child, that an effective system of registration and documentation of all trafficked children is established, and that every trafficked child is provided with not only short-term protection but also with the necessary economic and psycho-social support for full and long-lasting recovery and social reintegration (in line with the UNICEF

*Guidelines on the Protection of Child Victims of Trafficking and UNHCR Guidelines on Formal Determination of the Best Interests of the Child).*

- (27) Undertake and/or support, with the involvement of civil society and children, the regular evaluation of programmes and policies to prevent and stop the trafficking of children and of legislation that may have a conducive impact on trafficking, for example laws on marriage, free education, adoption and migration, birth registration, accordance of citizenship, refugee or other status.

### **III – Legal Frameworks and Enforcement of the Law**

- (28) Define, prohibit and criminalize, in accordance with existing international human rights standards, all acts of sexual exploitation of children and adolescents in their jurisdiction, irrespective of any set age of consent or marriage or cultural practice, even when the adult is unaware of the child's age.
- (29) Establish effective extraterritorial jurisdiction, abolishing the requirement of double criminality for offences of sexual exploitation of children and adolescents, and facilitate mutual legal assistance, in order to achieve effective prosecution of perpetrators and appropriate sanctions. Make all acts of sexual exploitation of children and adolescents an extraditable offence in existing or newly established extradition treaties.
- (30) Designate a lead law enforcement agency, where appropriate to national circumstances, to proactively enforce extraterritorial laws related to sexual exploitation of children and adolescents.
- (31) Ensure that child victims of sexual exploitation are not criminalized or punished for their acts directly related to their exploitation, but are given the status of victim in law and are treated accordingly.
- (32) Establish special gender sensitive units/ children's desks within police forces, involving when appropriate other professionals like health care and social workers and teachers, to address sexual crimes against children, and provide specialized training to judicial and law enforcement personnel.
- (33) Address corruption in law enforcement and the judiciary, as well as other authorities with a duty of care to children, recognizing corruption as a major obstacle to effective law enforcement and protection for children.
- (34) Establish and implement international, regional and national legal mechanisms and programmes for addressing sex offender behaviour and preventing recidivism, including through risk assessment and offender management programmes, the provision of voluntary extended and comprehensive rehabilitation services (in addition to but not in lieu of criminal sanctions

as appropriate), safe reintegration of convicted offenders and the collection and sharing of good practices and establish where appropriate sex offenders registers.

#### **IV – Integrated Cross-Sectoral Policies and National Plans of Action General**

- (35) Develop and implement comprehensive National Plans of Action on the sexual exploitation of children and adolescents, or include these in existing relevant planning frameworks, such as National Development Plans and ensure that these Plans are based in a cross-sectoral approach which brings all stakeholders together in a coherent and comprehensive framework for action. These Plans should incorporate gender-sensitive strategies, social protection measures and operational plans, with adequate monitoring and evaluation targeted resources and designated responsible actors, including civil society organizations for implementation of initiatives to prevent and stop the sexual exploitation of children and adolescents and provide support for child victims of sexual exploitation.
- (36) Promote and support multi-sectoral policies and programmes, including community-based programmes, within the framework of a comprehensive national child protection system to address phenomena that contribute to the sexual exploitation of children and adolescents including, for example, discrimination (including on the basis of sex), harmful traditional practices, child marriage and social norms that condone sexual exploitation.
- (37) Promote and fund meaningful child and youth participation at all levels in the design, monitoring and evaluation of policies and programmes, in campaigns and through peer-to-peer youth programmes, aimed at raising

awareness and preventing the sexual exploitation and trafficking of children and adolescents.

- (38) Initiate and support the collection and sharing of reliable information and cross-border cooperation, and contribute to databases on victims and perpetrators, to enhance assistance to children and address the demand for sex with children, in accordance with applicable laws.

#### *Prevention*

- (39) Ensure that all children born on their territory are registered immediately and for free after their birth and pay special attention to not yet registered children and children at risk and in marginalized situations.
- (40) Strengthen the role of educational institutions and staff to detect, denounce and help address sexual abuse and exploitation of children in all forms and sources.
- (41) Emphasize prevention of sexual exploitation of children and adolescents, through e.g. awareness raising and educational campaigns, support for parents and eradication of poverty while reinforcing or establishing multi-sectoral referral mechanisms to provide comprehensive support and services to children who have been victimized in sexual exploitation.
- (42) Support children to gain deeper knowledge of their own rights to be free from sexual exploitation, and the options available to help them to address abuse, so that they are empowered, with the partnership of adults, to end sexual exploitation.
- (43) Engage children in meaningful and critical examination of changing contemporary values and norms and their potential to increase vulnerability

to sexual exploitation; and promote education to enhance children's understanding of these issues in relation to sexual exploitation.

- (44) Undertake research on contemporary patterns of socialization of boys and men across different contexts to identify factors that promote and strengthen boys' and men's respect for the rights of girls and women and engage them in action initiatives that inhibit and discourage them from engaging in sexual exploitation of children and adolescents.

#### *Protection of the child*

- (45) Increase efforts to address the sexual exploitation of children and adolescents through the development of comprehensive and integrated national child protection systems, including the necessary budget allocations and based on identifications of settings where children are most at risk that aim to protect children from all forms of violence and abuse.

- (46) Establish by 2013 an effective and accessible system for reporting, follow up and support for child victims of suspected or actual incidents of sexual exploitation, for example by instituting mandatory reporting for people in positions of responsibility for the welfare of children.

- (47) Develop or enhance accessibility of existing telephone or web-based help lines, in particular for children in care and justice institutions, to encourage children and require care givers to confidentially report sexual exploitation and seek referral to appropriate services, and ensure that the operators of such reporting mechanisms are adequately trained and supervised.

- (48) Strengthen existing national child protection services or establish new

ones in order to provide all child victims of sexual exploitation, girls and boys, without discrimination, with the necessary economic and psychosocial support for their full physical and psychological recovery and social reintegration, and when appropriate, family reunification and interventions that support and strengthen families to mitigate the risk of further exploitation; such services to be provided by well trained multi-disciplinary teams of professionals.

- (49) Ensure that these services are accessible, appropriately resourced, comprehensive, child- and gender-sensitive, and reach all children without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex (or orientation), and social origin and including children with disabilities, from ethnic minorities, indigenous or Aboriginal children, refugee or asylum-seeking and children in domestic service or living on the streets and children displaced by conflict or emergency situations.

- (50) Develop programs that provide children of sex workers and children living in brothels with support and protection.

- (51) Promote and defend the privacy of the child victims and child perpetrators of sexual exploitation, taking into account relevant national laws and procedures, to protect their identity in investigatory or court proceedings or from disclosure by the media and ensure that these proceedings are child friendly and allow the child to participate in a meaningful way in the process of bringing the perpetrator to justice.

- (52) Ensure that children and adolescents exhibiting acts of sexual violence harmful to others receive appropriate care and attention as a first option through gender-sensitive and child-focused measures and programmes that balance their best interest with

due regard for the safety of others, and ensure compliance with the principle that depriving children of liberty should be pursued only as a measure of last resort, and ensure that those responsible for the care of such children are equipped with relevant and culturally appropriate training and skills.

## V – International Cooperation

- (53) Take all necessary steps to strengthen international cooperation by multilateral, regional and bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of those responsible for acts of sexual exploitation of children and adolescents; and for the assistance of child victims in their physical and psychological recovery, social reintegration and, as appropriate, repatriation.
- (54) Establish and/or improve by 2013 concrete mechanisms and/or processes to facilitate coordination at national, regional and international levels for enhanced cooperation among government ministries, funding bodies, UN agencies, NGOs, the private sector, workers' and employers' organizations, the media, children's organizations and other representatives of civil society with a view to enabling and supporting concrete action to prevent and stop the sexual exploitation of children and adolescents.
- (55) Strengthen and improve the effectiveness of existing regional mechanisms for exchange, coordination and monitoring of progress on child protection including against sexual exploitation in order to review progress and strengthen follow-up on the implementation of the recommendations made.
- (56) Provide, when in a position to do so, financial, technical and other assistance through existing multilateral, regional, bilateral and other programmes for addressing the sexual exploitation of children and adolescents; and explore the potential of a fund for child and youth initiatives in this area.
- (57) Develop, where appropriate with the support of UN agencies, NGOs, civil society organizations and the private sector, workers' and employers' organizations, policies and programmes to promote and support corporate social responsibility of enterprises operating inter alia in tourism, travel, transport and financial services, and of communication, media, Internet services, advertising and entertainment sectors; so that child-rights focused policies, standards and codes of conduct are implemented throughout the supply chain and include an independent monitoring mechanism.
- (58) Support and contribute to the Interpol international child abuse images database and nominate a responsible national focal point person or unit to collect and update promptly national data on sexual exploitation of children and adolescents, and systematically share this information with Interpol in order to support cross-border (international) law enforcement action and strengthen its effectiveness, and adopt multilateral agreements especially for police investigation work.
- (59) Undertake national and international coordinated measures to curb and stop the involvement of organized crime

in commercial sexual exploitation of children and bring persons and/or legal entities responsible for this form of organized crime to justice.

## **VI – Social Responsibility Initiatives**

We encourage the private sector, employers' and workers' organizations, to proactively engage in all efforts to prevent and stop the sexual exploitation of children and adolescents, and to use their knowhow, human and financial resources, networks, structures and leveraging power to:

- (60) Integrate child protection, including the prevention of sexual exploitation of children, into new or existing corporate social responsibility policies of enterprises operating inter alia in tourism, travel, transport, agriculture and financial services, and of communication, media, Internet services, advertising and entertainment sectors, and ensure appropriate implementation of such policies and widespread public awareness.
- (61) Incorporate the prevention and protection of children from sexual exploitation in human resources policies, such as Codes of Conduct and other corporate social responsibility mechanisms throughout the supply chain.
- (62) Join efforts with Governments, UN agencies, national and international NGOs, and other stakeholders to prevent the production and dissemination of child pornography, including virtual images and the sexually exploitative representation of children, and stop the use of the Internet and

new technologies for the grooming of children into online and off-line abuse; undertake actions to trace and stop the flow of financial transactions for sexual exploitation of children through the services of financial institutions; support efforts to address the demand for sexual exploitation of children in prostitution and the strengthening of services for children victims and their families, including the establishment of accessible telephone or web-based help lines; and provide support for educational and awareness-raising campaigns targeting children, parents, teachers, youth organizations and others working with and for children, on the risks of sexual exploitation of children, sexually exploitative use of the Internet, mobile phones and other new technologies as well as on protective measures.

## **VII – Monitoring**

- (63) Establish by 2013 independent children's rights institutions such as children's ombudspersons or equivalents or focal points on children's rights in existing human rights institutions or general ombudsperson offices, highlighting the importance for States Parties to the Convention on the Rights of the Child of General Comment No 2 of the Committee on the Rights of the Child; these bodies should play a key role in the independent monitoring of actions taken for the prevention of sexual exploitation of children and adolescents, protection of children from such exploitation and the restoration of the rights of sexually exploited children, in advocating for effective legal frameworks and enforcement and

in ensuring, where necessary, that child victims have effective remedies and redress, including the possibility of filing complaints before these institutions.

We encourage the Committee on the Rights of the Child to:

- (64) Persevere with reviewing progress of States Parties' fulfilment of their obligations to uphold the right of children to protection from sexual exploitation and pay special attention to the recommendations in the Rio Call for Action in its examination of reports under the Convention on the Rights of the Child and its Optional Protocols.
- (65) Adopt as a matter of priority a General Comment on the right of the child to protection from sexual exploitation, trafficking for sexual purposes, and the abduction and sale of children, including detailed guidance to States on the development, implementation and enforcement of national legislation and policies in this regard.
- (66) Continue to work with the Office of the High Commissioner for Human Rights in protecting child rights, and raising awareness of relevant international and regional human rights mechanisms.

We encourage other United Nations human rights treaty bodies, special procedures of the Human Rights Council and special representatives of the United Nations Secretary-General, as well as regional human rights mechanisms, to:

- (67) Pay particular attention to combating the sexual exploitation of children and adolescents, within their respective mandates and during their examination of State Parties' reports, country visits, in their thematic work and/or other activities.

We urge the Human Rights Council to:

- (68) Ensure that the Universal Periodic Review process includes rigorous examination of States' fulfilment of their obligations to children, including preventing and stopping the sexual exploitation of children and adolescents and to respectfully the rights of child victims of such exploitation.

We urge the yet-to-be-appointed Special Representative of the Secretary-General on Violence against Children, the Special Representative of the Secretary-General for Children and Armed Conflict, the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography and the Special Rapporteur on Trafficking in Persons, especially in Women and Children, together with other appropriate mandate holders and in collaboration with the Committee on the Rights of the Child, to:

- (69) Work together to avoid duplication and to maximise their impact in preventing and stopping the sexual exploitation of children and adolescents and, through their work, map experiences in the area of prevention and response to sexual exploitation of children and assess their effectiveness.

We encourage UN agencies, NGOs and human rights institutions to:

- (70) Support and provide information on the extent of and responses to sexual exploitation of children and adolescents to these bodies.
- (71) Work with the media to enhance their role in education and empowerment, and in protecting children from sexual exploitation, and to mitigate the harmful potential of the media, including

through the sexualization of children in advertising.

We call on international financial institutions such as the World Bank and the International Monetary Fund to:

- (72) Review their current macro-economic and poverty reduction strategies with a view to counteracting any negative social impact on children and their families, including loan conditionality which essentially limits social services and access to rights and minimizing the risk for children to sexual exploitation.

We call on religious communities to:

- (73) Reject, in the light of their consensus about the inherent dignity of every person, including children, all forms of violence against children including sexual exploitation of children and adolescents and establish, in that regard, multi-religious cooperation and partnership with other key stakeholders such as governments, children's organizations, UN agencies, NGOs, media and the private sector using their moral authority, social influence and leadership to guide communities in ending sexual exploitation of children and adolescents.

## C. Call for Action

(1) We commit ourselves to the most effective follow-up to this Call for Action:

- At the national level, inter alia, by biennial public reporting on the measures taken for the implementation of the Rio Declaration and Call for Action and promoting/initiating discussions on the progress made and the remaining challenges to named responsible mechanisms for monitoring implementation while also integrating such requirements into State reporting to the Committee on the Rights of the Child.
- At the international level, by encouraging and supporting coordinated actions by the relevant human rights treaty bodies, special procedures of the Human Rights Council and Special Representatives of the Secretary-General of the United Nations with a view to maintaining awareness of the Rio Declaration and Call for Action and promoting its implementation.

- (2) Encourage the private sector to join the United Nations Global Compact and communicate their implementation progress with regard to addressing the sexual exploitation of children and adolescents and supporting the realization of this platform for coordinated corporate efforts and sharing of best practices.

# ENDNOTES

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- <sup>297</sup> The Constitution of Zambia Act (Cap 1). <file:///M:/Rebecca/Zambia%20Research/Constitution%20of%20Zambia%20Act,%20Cap%201%20%20Zambia%20Legal%20Information%20Institute.htm>. Article 24 of the current Constitution protects young people – any person under the age of 15 years – from exploitation in the workplace: “[a] young person shall not be employed and shall in no case be caused or permitted to engage in any occupation or employment which would prejudice his health or education or interfere with his physical, mental or moral developments.” Moreover, “[a]ll young persons shall be protected against physical or mental ill treatment, all forms of neglect, cruelty or exploitation” and “[a] young person shall not be the subject of trafficking in any form.” The current Constitution also prohibits slavery and servitude in absolute terms.
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- <sup>301</sup> Zambia Penal Code Act, Cap 87. Accessed on 10 May 2013 from: <http://www.zambialii.org/zm/legislation/consolidated-act/87>.
- <sup>302</sup> Zambia Penal Code Act, Cap 87, Section 138(1). Accessed on 10 May 2013 from: <http://www.zambialii.org/zm/legislation/consolidated-act/87>. The VSU recorded 1,089 defilement cases in the first two quarters of the year, compared with a total of 1,339 in 2011. There were 511 convictions and 23 acquittals in 2011. U.S. Dept. of State. *2012 Country Report on Human Rights Practices: Zambia*. Accessed on 2 May 2013 from: <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper>; The police’s VSU recorded 2419 defilement cases in 2010, a total thought to understate the true prevalence greatly; prosecutions resulted in 240 convictions and 162 acquittals. U.S. Dept. of State. *2011 Country Report on Human Rights Practices: Zambia*. Accessed on 16 May 2013 from: [http://www.refworld.org/topic\\_50ffbce4c9,50ffbce4ed,4fc75a4aa3,0,,ZMB.html](http://www.refworld.org/topic_50ffbce4c9,50ffbce4ed,4fc75a4aa3,0,,ZMB.html).
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- <sup>304</sup> The African Child Policy Forum. *In the Best Interests of the Child: Harmonising laws in Eastern and Southern Africa*. Accessed on 16 May 2013 from: [http://www.crin.org/docs/acpf\\_best\\_interests.pdf](http://www.crin.org/docs/acpf_best_interests.pdf).
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- <sup>306</sup> Zambia Online, The National Homepage of Zambia. *Penal Code to be Reviewed*, 12 April 2012. Accessed on 17 June 2013 from: <http://zambia.co.zm/news/zNBC/2012/04/12/penal-code-to-be-reviewed/>.

- <sup>307</sup> Information received from CHIN, the ECPAT group in Zambia.
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- <sup>309</sup> The African Child Policy Forum. *Harmonisation of Children's Laws in Zambia*. Accessed on 3 May 2013 from: <http://www.acerwc.org/wp-content/uploads/2012/05/English-ACERWC-Zambia-Harmonisation-of-Laws-on-Children.pdf>.
- <sup>310</sup> U.S. Department of State. *2012 Country Report on Human Rights Practices: Zambia*. Accessed on 2 May 2013 from: <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/#wrapper>; see Zambia Penal Code, Chapter XV: Offences Against Morality; Zambia Penal Code (Amendment) No.2 of 11, Amendment of Section 138.
- <sup>311</sup> UNICEF, Zambia. *Situation Analysis of Children and Women 2008*. Accessed on 29 May 2013 from: [http://www.unicef.org/zambia/UNICEF\\_GRZ\\_Situation\\_Analysis\\_2008-part2.pdf](http://www.unicef.org/zambia/UNICEF_GRZ_Situation_Analysis_2008-part2.pdf).
- <sup>312</sup> Human Rights Council. *Report of the Working Group on the Universal Periodic Review: Zambia, 2008*. Accessed on 24 June 2013 from: [http://lib.ohchr.org/HRBodies/UPR/Documents/Session2/ZM/A\\_HRC\\_8\\_43\\_Zambia\\_E.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session2/ZM/A_HRC_8_43_Zambia_E.pdf). There are a number of pieces of legislation that cover matters related to children. Some of these laws include the *Affiliation and the Maintenance of Children Act, the Penal Code (Amendment) Act 2005, the Adoption Act, Juveniles Act, Employment of Young Persons and Children Act, Apprenticeship Act, Penal Code, Wills and Administration of Testate Estate Act, Intestate Succession Act, Zambia Police Act, Defence Act, Births and Deaths Registration Act, Day Nurseries Act, Probation of Offenders Act, Liquor Licensing Act, Anti Human Trafficking Act 2008 and Termination of Pregnancy Act*.
- <sup>313</sup> UNICEF. *Annual Report 2011 for Zambia*. Accessed on 19 June 2013 from: [http://www.unicef.org/about/annualreport/files/Zambia\\_COAR\\_2011.pdf](http://www.unicef.org/about/annualreport/files/Zambia_COAR_2011.pdf).
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- <sup>315</sup> Information received from CHIN, the ECPAT group in Zambia.
- <sup>316</sup> Information received from CHIN, the ECPAT group in Zambia.
- <sup>317</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: Zambia*. Accessed on 7 June 2013 from: [http://ap.ohchr.org/documents/alldocs.aspx?doc\\_id=20780](http://ap.ohchr.org/documents/alldocs.aspx?doc_id=20780).
- <sup>318</sup> First Draft Constitution of the Republic of Zambia, 30 April 2012. Accessed on 8 July 2013 from: <http://zambianconstitution.org/downloads/First%20Draft%20Constitution.pdf>.
- <sup>319</sup> UN submission to the Universal Periodic Review of Zambia, 2012. Accessed on 9 May 2013 from: [http://lib.ohchr.org/HRBodies/UPR/Documents/Session14/ZM/UNCT\\_UPR\\_ZMB\\_S14\\_2012\\_UnitedNationsCountryTeam\\_E.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session14/ZM/UNCT_UPR_ZMB_S14_2012_UnitedNationsCountryTeam_E.pdf).
- <sup>320</sup> UN submission to the Universal Periodic Review of Zambia, 2012. Accessed on 9 May 2013 from: [http://lib.ohchr.org/HRBodies/UPR/Documents/Session14/ZM/UNCT\\_UPR\\_ZMB\\_S14\\_2012\\_UnitedNationsCountryTeam\\_E.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session14/ZM/UNCT_UPR_ZMB_S14_2012_UnitedNationsCountryTeam_E.pdf). The briefing note aimed to provide input to the UPR of Zambia at the Human Rights Council during the 14th session of the UPR Working Group, to be held in Geneva from 22 October to 5 November 2012.
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Zambia. *Situation Analysis of Children and Women 2008*. Accessed on 29 May 2013 from: [http://www.unicef.org/zambia/UNICEF\\_GRZ\\_Situation\\_Analysis\\_2008-part2.pdf](http://www.unicef.org/zambia/UNICEF_GRZ_Situation_Analysis_2008-part2.pdf).

- <sup>322</sup> Battery, rape, defilement, and murder of women in domestic incidents are criminal matters which are covered by the Penal Code and should only be heard in the Magistrate's or High Court. *UNICEF, Zambia. Situation Analysis of Children and Women 2008*. Accessed on 29 May 2013 from: [http://www.unicef.org/zambia/UNICEF\\_GRZ\\_Situation\\_Analysis\\_2008-part2.pdf](http://www.unicef.org/zambia/UNICEF_GRZ_Situation_Analysis_2008-part2.pdf).
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- <sup>324</sup> UNICEF, Zambia. *Situation Analysis of Children and Women 2008*. Accessed on 29 May 2013 from: [http://www.unicef.org/zambia/UNICEF\\_GRZ\\_Situation\\_Analysis\\_2008-part2.pdf](http://www.unicef.org/zambia/UNICEF_GRZ_Situation_Analysis_2008-part2.pdf).
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- <sup>327</sup> UNICEF, Zambia. *Situation Analysis of Children and Women 2008*. Accessed on 29 May 2013 from: [http://www.unicef.org/zambia/UNICEF\\_GRZ\\_Situation\\_Analysis\\_2008-part2.pdf](http://www.unicef.org/zambia/UNICEF_GRZ_Situation_Analysis_2008-part2.pdf).
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- <sup>329</sup> Office of the United Nations High Commissioner for Human Rights. *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*. Accessed on 18 February 2013 from: <http://www2.ohchr.org/english/law/crc-sale.htm#art2>.
- <sup>330</sup> Office of the United Nations High Commissioner for Human Rights. *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*. Accessed on 18 February 2013 from: <http://www2.ohchr.org/english/law/crc-sale.htm#art2>.
- <sup>331</sup> Zambian Penal Code Act, Cap 87, section 140(a). Accessed on 11 March 2014 from: <http://www.zambialii.org/zm/legislation/consolidated-act/87>.
- <sup>332</sup> Zambian Penal Code Act, Cap 87, section 140(b). Accessed on 11 March 2014 from: <http://www.zambialii.org/zm/legislation/consolidated-act/87>.
- <sup>333</sup> Zambian Penal Code Act, Cap 87, section 140(c) and (d). Accessed on 11 March 2014 from: <http://www.zambialii.org/zm/legislation/consolidated-act/87>.
- <sup>334</sup> Zambia Penal Code Act, Cap 87. Accessed on 10 May 2013 from: <http://www.zambialii.org/zm/legislation/consolidated-act/87>.
- <sup>335</sup> Zambia Penal Code Act, Cap 87. Accessed on 10 May 2013 from: <http://www.zambialii.org/zm/legislation/consolidated-act/87>. Section 144(1) Any person who detains any child or other person against that child or other person's will (a) in or upon any premises with intent that the child or other person may be unlawfully and carnally known by any third person, whether particularly or generally or for rituals or any other purpose; or (b) in any brothel; commits a felony and is liable, upon conviction, to imprisonment for a term of not less than twenty years and may be liable to imprisonment for life.
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- <sup>337</sup> USAID Zambia. *Framework & Draft Legislation to Combat Human Trafficking in Zambia: Development of an Effective*

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- <sup>339</sup> Understanding Children's Work, An Inter-Agency Research Cooperation Project (ILO, UNICEF, World Bank). *Understanding children's work in Zambia: Report on child labour*, May 2009, p29. Accessed on 2 May 2013 from: [http://www.ucw-project.org/attachment/child\\_labour\\_Zambia20110627\\_162057.pdf](http://www.ucw-project.org/attachment/child_labour_Zambia20110627_162057.pdf). **Section 138 (1)** Any person who unlawfully and carnally knows any child commits a felony and is liable, upon conviction, to a term of imprisonment of not less than fifteen years and may be liable to imprisonment for life. (2) Any person who attempts to have unlawful carnal knowledge of any child commits a felony and is liable, upon conviction, to imprisonment for a term of not less than fourteen years and not exceeding twenty years. (3) Any person who prescribes the defilement of a child as cure for an ailment commits a felony and is liable, upon conviction, to imprisonment for a term of not less than fifteen years and may be liable to imprisonment for life. (4) A child above the age of twelve years who commits an offence under subsection (1) or (2) is liable, to such community service or counseling as the court may determine, in the best interests of both children. **Section 142:** Any person who, being the owner or occupier of premises or having or acting or assisting in the management of control thereof, induces or knowingly permits any child to resort to or be upon such premises for the purpose of being unlawfully and carnally known by any other person, whether such carnal knowledge is intended to be with any particular person or generally, commits a felony and is liable, upon conviction, to imprisonment for a term of not less than twenty years and may be liable to imprisonment for life. **Section 143:** Any person who sells or traffics in a child or other person for any purpose or in any form commits an offence is liable, upon conviction, to imprisonment for a term of not less than twenty years: provided that where it is proved during the trial of the accused person that the sale or trafficking in a child or other person was for the purpose of causing that child or person to be unlawfully and carnally known by any other person, whether such carnal knowledge was intended to be with any particular person or generally, the person is liable, upon conviction, to imprisonment for life. Zambia Penal Code Act, Cap 87. Accessed on 10 May 2013 from: <http://www.zambialii.org/zm/legislation/consolidated-act/87>; Section 138 of the Act was amended in 2011 to provide a defence for a person charged of an offence under the section if the person had reasonable cause to believe, and in fact did believe, that the child against whom the offence was committed was of, or above, the age of sixteen. Additionally, Section 143 of the Act was repealed. Zambia Penal Code (Amendment) No.2 of 11. Accessed on 13 March 2014 from: [http://www.ilo.org/dyn/natlex/natlex\\_browse.details?p\\_lang=en&p\\_country=ZMB&p\\_classification=01.04&p\\_origin=COUNTRY&p\\_sortby=SORTBY\\_COUNTRY](http://www.ilo.org/dyn/natlex/natlex_browse.details?p_lang=en&p_country=ZMB&p_classification=01.04&p_origin=COUNTRY&p_sortby=SORTBY_COUNTRY).
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