

**NGO COMPLIMENTARY REPORT**

**ON THE ZAMBIAN GOVERNMENT INITIAL AND FIRST PERIODIC  
REPORT ON THE IMPLEMENTATION OF THE**

# **UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD (CRC).**



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## **1. INTRODUCTION**

Zambia signed the UN CRC in September 1990 and ratified it in December 1991. This implied that Zambia committed itself to the tenets contained in the provisions of the CRC. Under CRC provisions the State Party commits to provide an account of the implementation process after two years of ratification. The Zambian Government submitted its Initial and First Periodic Report on the implementation process in 2002.

Pursuant to the CRC provision, Article 45 (a), the Children in Need Network (CHIN) with the support of Save the Children – Sweden facilitated a process of developing an NGO Report whose major purpose was to provide an independent assessment of the implementation process of the CRC in Zambia. CHIN is a network of 82 NGOs and Community based Organizations that are working with children in need in Zambia. The NGO report was compiled based on a wide consultative process with NGOs and other relevant stakeholders.

The NGO Report is not intended to replace the Government report but to provide complimentary information arising from the gaps and inconsistencies observed in the Government Report. It supplements the Government effort in providing an objective picture of children in the country.

The process that led to this report included a consultation through questionnaires circulated to over 40 respondents drawn from organizations relevant to the process. This was followed by a 3 days consultative workshop for 40 NGO representatives and some children representatives; the first two days collected thoughts of the group, and the third day involved a smaller drafting Committee. A Team of two consultants with CHIN thereafter finalized the Report on the basis of consultation with the selected small reference committee.

Children in Zambia constitute slightly over 50% of the population with a majority of whom are resident in rural areas. The overwhelming percentage of the Zambian population lives below the poverty datum lines. A major proportion (approximately 50%) of the vulnerable in society therefore constitutes the under aged.

The realization of children's rights in Zambia largely remains unattained with evident indications of deterioration. This dire situation could be attributed to a number of factors, principally among which are:-

- i) The reduction in socio economic capacities of families and the community at large to care for children due to high poverty levels – estimated at 80 % of the population.
- ii) Government policies that have led to massive job losses and lack of employment and for other people due to the shrinking job market.

- iii) An increasing number of children whose numbers are not commensurate with available social services such as education, health, sanitation and recreational facilities.
- iv) High prevalence levels of the HIV/AIDS and Lack of a government policy on HIV/AIDS which has brought about a high and unmitigated incidence of HIV/AIDS related deaths resulting in an ever-increasing number of child headed households and orphans.
- v) The existence and practice of certain traditions and customs that tend to negatively affect children.
- vi) Inadequate legal framework and the weak enforcement of existing laws resulting in unabated violations of children's rights.
- vii) Widespread ignorance on children's rights.

## **2.0 CHAPTER 1 - GENERAL MEASURES OF IMPLEMENTATION.**

### **ARTICLE 4**

**The state must do all it can to implement the Rights contained in the Convention.**

The ISPR on page 12 alludes to the existence of a national Child Policy and a National Programme of Action (NPA) as core guiding factors for CRC implementation. However, the absence of commitment in the form of specific resource allocation as back up to the NPA negates the positive intentions contained in the NPA therefore affecting implementation of CRC.

Furthermore, as wayforward the state party gives vague statements which lack specific concrete measures in ensuring realistic projections of output achievement.

On page 16 ISPR indicates as progress widespread information dissemination and increased awareness of the CRC among public. However, admission indicating low awareness levels is made on page 17 ie out of 745 respondents in a study to determine awareness levels in Lusaka, Livingstone and Solwezi only 19% were aware of CRC. These results depict awareness levels in the three provincial Headquarters which can be relatively assumed to have higher access to information as compared to rural locations within the same geographical provinces. This indicates that awareness levels are infact lower in rural areas.

There is need to point out that there has been very little effort on the part of Government to adequately disseminate the CRC to the public. The media cited on page 16 has limited coverage due to the use of English forming a language barrier for the majority of rural community and due to the widespread poverty there is limited access to media facilities eg. radio.

With recognition to Government effort in intergrating human rights in school curricula, we still bemoan the limited capacity building on issues of human rights on the part of Teachers who are the major couriers of the programme in schools.

## **2.1 Legislation ISPR PG 10**

Although there is in existence pieces of legislation that aim towards the protection of children's rights, they are often in contradiction with each other. Further, the CRC has to date not been domesticated and cannot therefore be

**In the month of November 2002 a government District Administrator was fined K3 million by a customary law court hearing on having been convicted for defiling a girl below the age of 16 years. The official was only prosecuted under provisions of the Penal Code after concerns were raised by the Civil Society and concerned citizens. Times of Zambia 29 Nov, 2002.**

directly applied or enforced by courts of law. Any relief sought by a litigant has to comply with what is provided for in existing legislation, in some instances such provisions do not conform to provisions of the CRC.

A lot of conflict still exists under various legislation that tends to be at variance with the CRC.

The effect of the non-compliance with the CRC in regard to the Intestate Succession Act is such that independent "Children" of above 18 years of age inherit the parent's property often to the detriment of the children of 18 years and below.

The application of a dual legal system ie customary law and statutory has been an impediment to the application of CRC. Whilst statutory law subscribes to several age limits the customary law recognizes puberty and tends to have a strong inclination towards tradition and custom.

## **2.2 Day Nurseries and Orphanages ISPR PG 12**

The State Party at paragraph 36 alluded to the existence of the Day Nurseries Act, Chapter 313.

There has not been any strict implementation of laws that protect the child. Day Nurseries and Orphanages continue to sprout up especially in urban centers, without the benefit of inspections in order to determine their suitability. In high-density areas it is not uncommon to find a day nursery being run from a kitchen of a residential home.

The Inspectorate directorate falls under the Ministry of Local Government and Housing, which is not directly involved with the implementation of the CRC. There is therefore neither any meaningful inspections nor quality assurance thus jeopardizing the lives of young children accepted into such institutions. There has been some media reports<sup>1</sup> to the effect that most local authorities in Zambia have been operating below capacity due to severe liquidity problems with personnel going for several months without salaries.

### **2.3 Probation of Offenders ISPR PG 12**

The Act does not expressly spell out where juvenile offenders should be kept. In a lot of instances juvenile offenders are kept in the same cells as adult offenders.

**In one recent heavily publicized murder trial a juvenile suspect was held in the same cell with adult remandees in prison. (Mazuba brothers case aged 16,19,21)**

Zambia currently has two ill funded juvenile centers in Mazabuka and Livingstone and a hostel in Kitwe. In the wake of child population of more than 50% of a total Zambia population of 10.3 million<sup>2</sup> the three sites are not adequate and therefore does not satisfy the State Party's obligation under CRC. They also cannot be utilized as temporary shelter for active court cases.

### **2.4 Policy Framework ISPR PG 12**

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<sup>1</sup> Front page The Post 23rd November, 2002.

<sup>2</sup> As indicated in the 2000 national population and housing census.



Although there is a strategic framework in place, no HIV/AIDS Policy has been drawn up. The State Party has made little or no progress in the realization of this need, resulting in the absence of guidelines on related issues including Orphans and Vulnerable Children (OVC) programmes.

**In 2002, the Times of Zambia quoted one Government Deputy Minister as having stated during a parliamentary debate that all HIV/AIDS positive persons must be quarantined.**

The absence of a policy has diminished the desired co-coordinated approach towards such programmes.

## **2.5 Sector Ministries ISPR PG 12**

No less than seven ministries are responsible in one way or another for the implementation of the CRC. The lack of co-ordination between the ministries has left children's programmes prone to a lot of deficiencies. Programmes for the child have not been harmonized and coordinated consequently enhancing the inefficiencies in its implementation.

The government's desired plans to streamline and co-ordinate child-centered activities is appreciated (ISPR page 13). However it is worthy of mention that the plans do not seem to have advanced further than being policy pronouncements. Eight years have elapsed (from 1994) and yet there are few significant measurable results achieved. Co-ordination between ministries continues to be a struggle.

## **2.6 Civil Society ISPR PG 13**

Realities on the ground will prove that the role government plays in implementing CRC programming is oftentimes secondary. There is little direct support by Government and greater reliance is placed on NGOs to find their own sources of income for programmes that should be principally government funded. Attached is a list of some NGOs addressing issues of children.

**What is government doing to allocate more resources towards programmes under the CRC?**

## **2.7 International Conventions ISPR PG 14**

The CRC/NPA District Committees (ISPR Pg 16) exist on paper, however the level of co-ordination at district level is currently non-existent.

## **2.8 Proportion of the budget devoted to social expenditures for children. ISPR PG 15**

The measures put into place by government in 1991 have tended to negatively impact on the child. Massive job losses arising from restructuring and liberating the economy have increased the rate of destitution, limited access by children to social services and an alarming increase in the number of street children. There is a tendency in new policies to move away from the gains made up until 1991.8

The budgetary allocations to the health, education and water and sanitation sectors have not registered impressive results. The mortality and morbidity rates remain high, health services are not free and where they

are free medicines are rarely available.

Education is not free as parents are still expected to make some form of financial contribution to the institution. Provision of sufficient clean water continues to be a complex issue in need of serious and immediate attention .

Any meaningful results in the area of provision of these services calls for more commitment by government. The government needs to increase allocations in the delivery of these and other services that go towards the protection of the child.

End of decade report indicated an increase of under 5 mortality rates from 191 deaths per 1000 births in 1991 to 202 deaths in 1999,

End decade report indicates that the net primary school enrolment rate has stagnated at 68% between 1991 and 1998

End decade report shows an increase of 5% only from 50% of households access to safe drinking water in 1991 to 55% in 1999

## **2.9 Measures taken to make the principles and provisions of the convention widely known. ISPR PG 16**

Dissemination of the CRC by government has on the whole been poor. NGOs involved in the area of the Rights of the Child have not had free access to the government controlled media and have had to pay for programmes at the commercial rates. Government currently does not sponsor any television or radio programme or disseminates information on the CRC in the government-controlled media.

Although parts of the CRC have been integrated in the schools' curriculum, there is concern among the NGO community that the level of awareness and sensitization of such amongst the teachers is limited at best.

## **2.10 RECOMMENDATIONS**

- **Government should commit itself to a definite plan of action to domesticate the CRC.**
- **The enforcement of the CRC should be supervised and harmonized by one Ministry in order to ensure effective delivery.**
- **More juvenile centers should be sponsored to ensure the separation of juvenile offenders from adult offenders.**
- **There must be an increase of budgetary allocations towards CRC programmes.**
- **The HIV/AIDS policy must be made a priority in its completion and wide dissemination.**
- **NGOs involved in the dissemination of the CRC should be allowed free access to government controlled media.**
- **Government plans in the enforcement of the CRC must be time bound.**
- **Monitoring and evaluation of CRC programmes must be strengthened.**

### 3.0 **CHAPTER 2 - DEFINITION OF A CHILD**

#### **Article 1**

**The convention defines a child as a person below the age of 18 years, unless national law recognizes the age of majority earlier.**

The lack of one standard definition for a child has encouraged various and diverse interpretations of the law which, as a result, has placed the beneficiary at a disadvantage, and affected the implementation of the CRC throughout Zambia.

**Customary law provides for below 14 years, the Employment Act 14 years, the Marriage Act 21 years, the age of sexual consent has been assumed at above 16 years and in matter of state succession there is no age restriction in the definition of a child.**

**The Intestate Succession Act (Chapter 59 of the Laws of Zambia) does not conform to the definition of a child as provided for by the CRC. Under that Act a child is any offspring of a deceased person regardless of age.**

#### **Marriage Age ISPR PG 22**

Whereas the penal code (Chapter 87) criminalizes any carnal knowledge of a girl under the age of 16 years, customary law allows marriage with the consent of parent or guardian for a girl of 14 years.

#### **Defilement ISPR PG 23**

Defilement cases taken before customary law courts have repeatedly sentenced perpetrators to paying damages. This is despite the criminal nature of the act stipulated in the penal code.

In the month of November 2002 a government District Administrator was fined K3 million by a customary law court hearing on having been convicted for defiling a girl<sup>3</sup> below the age of 16 years. The official was only prosecuted under provisions of the Penal Code after concerns were raised by the Civil Society and concerned citizens.

#### **Education ISPR PG 22**

A considerable number of children are out of school due to government's failure to provide sufficient school places and resources need by the existing educational institutions.

Although government has made a number of pronouncements with regard to the Basic Education Sub-sector Investment Programme (BESSIP), the

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<sup>3</sup> Times of Zambia 29 November, 2002.

implementation of nine compulsory years of basic education has yet to come to fruition. Only about 50% of the pupils who entered the 2002 primary school leaving examination qualified to Secondary school.<sup>4</sup>

#### **Alcohol Consumption ISPR PG 24**

We applaud government over the existing law prohibiting establishments from selling alcoholic beverages to children. Reports, however indicate that there continues to be a lot of abuse of such substances by under-aged children, an indication of government's failure to enforce the law. In connection to this, there has been a significant increase in the cases of child prostitution.

#### **Birth certificates ISPR PG 21**

Issuance of birth certificates continues to be problematic, and a lot of children are denied this entitlement because of bureaucratic reasons.

### **RECOMMENDATIONS**

- **Government should commit itself to a definite time frame within which various pieces of legislation will be harmonized in order to comply with provisions of the CRC on the definition of a child.**
- **A constitutional provision should be included providing for 18 years as the age of majority, with special regard for exceptions only in areas that promote the welfare of the child.**
- **All matters involving children should be removed from customary law courts and only handled by child friendly statutory law courts.**
- **Government should enact and implement a law that provides for compulsory basic education for the child in line with the CRC.**
- **Government should enhance the capacity of local authorities to conduct inspections of establishments that sell alcoholic beverages and further motivate inspectors of such establishments.**
- **Issuance of birth certificates should be Decentralized.**

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<sup>4</sup> Times of Zambia, December 2002.

## **4.0 CHAPTER 3 - GENERAL PRINCIPLES**

### **Article 2**

**All rights apply to all children without exception, irrespective of race, color, sex, language, religion, political or other opinion, national ethnic or social origin, property, disability, birth or other status of the child or the child's parents or legal guardian. It is the state's obligation to protect children from any form of discrimination and to take positive action to promote their rights.**

Zambia's "strong and functional" extended family system is crumbling and it is evident that this has implications on general household level child welfare. subsequently, there has been a drastic increase in the number of street children in most urban centers.

### **Maintenance ISPR PG 28**

Enforcement mechanisms for maintenance for young children have not been highly effective, especially in cases where the putative parent is self-employed or unemployed. Courts have been ineffective in ordering maintenance orders in situations where perpetrators have expressed their inability to pay maintenance. The apparent weakness in the system has led many a child to destitution.

### **Inheritance ISPR PG 28**

Some provisions of customary law continue to negatively impact the child. In matters of inheritance there is a tendency by relatives of an intestate to rely on the customary practice of denying the children their inheritance. Although laws that are meant to protect the child exist, the process of litigation is slow and inefficient and, in a lot of cases, redress comes too late.

### **Recommendations**

- **Stiff penalties should be imposed on those who neglect to maintain their children.**
- **Fast track courts should be established to deal with matters affecting the welfare of children.**

## **5.0 CHAPTER 4 - CIVIL RIGHTS AND FREEDOMS**

### **Article 7**

**The child has the right to a name at birth. The child also has the right to acquire a nationality and, as far as possible, to know his or her parents and be cared for by them.**

### **Article 8**

**The state has an obligation to protect, and if necessary, re-establish basic aspects of the child's identity. This includes name, nationality and family ties.**

### **5.1 Registration ISPR PG 34**

The process of registration takes too long as it is largely centralized. It is not uncommon for a birth certificate to be issued well after one year following the birth of a child. Some parents have given up and relied on the birth record issued by hospital maternity wings. It is commendable that government recognizes the lapses ISPR PG 35. However, it must go a stage further by committing itself to a definite programme of action.

Reports indicate that Corruption is rampant at registration centers, especially in the issuance of national registration cards and passports.

### **5.2 Torture and Degrading Treatment ISPR PG 39**

The Permanent Human Rights Commission does not have the mandate to litigate upon cases and therefore only operates as an advisory body.

In 2002, the government directed that Commissioners to perform their functions on part-time basis. It is common knowledge that this will greatly affect their efficiency and effectiveness, as they are no longer able to allocate enough time to commission work.

It is not true that Zambia has not

**It has been observed that more resources are made available to the registration office only when there are national elections and/or by-elections; in improving government's image in its ability to sustain efficient services at registration centres.**

recorded cases of child torture ISPR PG 40. A lot of complaints of torture and degrading treatment at Police Stations as well as on the street have been documented.( YWCA, Zambian Children New Life Centre and Victims Support Unit).

### **5.3 Awareness Campaigns and Other Interventions ISPR PG 40**

Inclusion of Human Rights law in curriculum of police training college and schools is commendable. However this must be amplified at the level of police training and higher institutions of learning.

### **5.4 Constraints and Challenges ISPR PG 40**

Contrary to the assertion by government (ISPR PG 40), there are a number of NGOs that have continued to conduct sensitization and awareness programmes in rural areas. Government should recognize the fact that it shoulders the responsibility to sensitize rural areas and the NGOs are meant to merely supplement government efforts. The inability by government to capacity build NGOs also ultimately affects the extent to which the latter may perform their functions.

The effectiveness of the sensitization campaign may not ultimately be realized, as there is no monitoring mechanism through which government determines work put in by NGOs.

### **5.5 Recommendations**

- **Government should set down a concrete programme in upgrading and computerizing of birth certificates and passports.**
- **Issuance of birth certificates should be decentralized.**
- **Logistical support to the registration office must be improved.**
- **There is need for review of the Permanent Human Rights Commission Act to make positions of the Commissioners full time and accord them judicial power.**
- **Training of Police and other security wings on the CRC must be enhanced.**
- **Government should establish a monitoring mechanism in the dissemination of the CRC countrywide.**



## **6.0 CHAPTER 5 - FAMILY ENVIRONMENT AND ALTERNATIVE CARE**

### **Article 5**

**The state must respect the rights and responsibilities of parents and the extended family to provide guidance for the child, which is appropriate to her or his evolving capacities.**

### **Article 18 (1)(2)**

**Parents have joint primary responsibility for raising the child, and the state shall support them in this. The state shall provide appropriate assistance to parents in child raising.**

### **6.1 Parental Guidance ISPR PG 42**

Provision of parental counseling services through the various ministries needs commendation. The Ministry of Education also does provide these services.

Although the law provides for an input from children in cases arising from legal separation of their parents, in practice they are however almost always excluded from the proceedings ISPR PG 43. Courts have taken the stand that custody will be granted to a party after having considered what is in the best interest of the child. Children are therefore not consulted before a decision is made.

### **6.2 Illicit Transfer ad Non-return ISPR PG 44**

Contrary to what has been suggested, the government is undoubtedly aware of reports of cases of Zambian children who have been taken outside Zambian borders by their alien fathers and not returned.

### **6.3 Children Deprived of their Family Environment ISPR PG 45**

Although the law provides for placement of children in an environment as close to their normal living arrangements as possible, this has not been the case in practice. Little or no attention is paid to the child's cultural, social and religious background, principally due to financial constraints. The government has not funded the Social Services Department well enough for them to undertake deliberate inspections.

**There are reports that A lot of West Africans nationals have taken their Zambian born children to their homes on being deported and other instances without consent of their Zambian spouses.**

### **6.4 Adoption ISPR PG 46**

Enforcement of provisions of the adoption Act has been lax and there has been non-compliance with investigations by Social Services Officers of applicants for an adoption order.

### **6.5 Abuse and Neglect Including Physical and Psychological Recovery and Social Re-integration ISPR PG 48**

Government continues to abdicate its responsibility to protect the interest of the child especially in matters of sexual abuse.

Numerous cases of defilement are reported almost daily in the media most of which are heard by customary law courts as civil matters, whereas the law provides for criminal prosecution of perpetrators. It is noted that in almost all cases no follow up action is carried out by relevant government agencies to prosecute the defiler.

Whilst we commend Government for ratifying ILO Convention 182 and Convention 138 on the worst forms of child labour and minimum age limit.

The roads in most major urban centres are busy with street children, some of who are sent onto the streets by parents or guardians. There has been

**Studies indicate an increase of more than 900% in the number of children involved in economic activity between 1991 and 1999. (World Bank Study Fund 1991 and SIMPOC study 1999).**

no reported action taken by government to prosecute neither such parent or guardian or those that exploit children as cheap forms of labour.

There has also been an apparent lack of post-court psychological evaluation procedures or counseling of abused children. Even where such counseling is provided the capacities of responsible officers remain inadequate.

## **6.6 Achievements ISPR PG 48**

The positive role that the Police Service Victim Support Unit is playing is highly appreciated. The Unit offers the first line of defense for any victim of abuse. It is noted however that the Unit could do much better with more support from government.

### ***Constraints and Challenges***

As a way forward the government should make definite plans as to how the constraints and challenges should be tackled. Mere acknowledgement of such may not be very helpful where there is no time frame in its resolution.

### **6.7 Recommendations:**

- **Government should allow for strict implementation of the law to ensure participation of children in matters of separation of parents and adoption.**
- **Deliberate steps must be taken to ensure automatic criminal prosecution of all abusers of children.**
- **There is need for a definite national programme of action that is backed by resource base towards the implementation of C182 on the worst forms of child labour.**
- **The Police Service Victim Support Unit must be strengthened and given more resources in order for it to meet the challenge posed by an increase in the cases of abuse against children.**

## **7.0 CHAPTER 6 - BASIC HEALTH AND WELFARE**

### **Article 23**

**A disabled child has the right to special care, education and training to help him or her enjoy a full and decent life in dignity and achieve the greatest degree of self-reliance and social integration possible.**

#### **7.1 The Welfare of Disabled Children ISPR PG 50**

It has been noted that the government has a National Child Policy on special education. Its lack of implementation however has left it largely unheard of. The guidelines alluded to have not actualized, as the public's perception of matters regarding the handicapped still remains quite prejudiced. No mechanism exists, at least for public consumption, for helping families identify development disabilities in their children.

#### **7.2 Rights of Disabled Children ISPR PG 50**

An extremely low number of places in the country are disabled-friendly. In fact almost all schools are built in such manner that the handicapped cannot function effectively. Probably the most disadvantaged are those that need the use of wheelchairs.

#### **7.3 Evaluation of the Situation of Disabled Children ISPR PG 51**

Seriousness is lacking by government in implementing measures to effectively evaluate the situation of disabled children. The last evaluation was conducted seventeen years ago. Government should show more concern by taking on more practical steps.

#### **7.4 Adequate Training ISPR PG 51**

Very few practical measures have been taken to ensure adequate training for the handicapped. In fact the programme conducted in conjunction with the Finnish Association on Mental Retardation (FAMR) has not been operational for sometime, as the Finnish Collaborators pulled out. Handicapped students now have to source their own funding in the same manner as all other students.

## **7.5 Measures Taken to Diminish Infant and Child Mortality ISPR PG 54**

The goals for the National Programme of Action (NPA) are outdated and need updating. The government report does not indicate whether the goals earmarked for 1995 and 2000 were achieved at all. However the End Decade Report indicates that most of the targeted areas have in fact deteriorated.

(The End Decade Report indicated increase in under 5 mortality rates from 191 deaths per 1000 births in 1991 to 202 deaths in 1999, and an increase of 5% only from 50% of households access to safe drinking water in 1991 to 55% in 1999) .

Further more the NPA has not been evaluated and there has been inadequate monitoring of progress.

## **7.6 Traditional Practices Prejudicial to the Health of Children ISPR PG 59**

It is appreciated that the government recognizes the inherent disadvantages in male circumcision, forced marriages and early pregnancies.

Government has yet to implement strategies to correct the situation. The practices have continued in much the same way due to the government's lack of intervention.

Male circumcision can be made safer through the training of circumcision attendants on more hygienic practices.

Legislating against customary practices that are repugnant to natural justice including marriages involving minor children will help redress the situation.

## **7.7 Social Security and Child Care Services ISPR PG 61**

While the policy on free medical services for children is appreciated there don't seem to be any tangible reflection of a corresponding increase in expenditure on drugs. Indications are that almost all persons going through hospitals are required to purchase their own drugs. The situation is even more critical in rural areas.

## **7.8 Achievements**

It is difficult to believe that any goal under the NPA has been achieved as that which obtains on the ground indicated the contrary. It would help for government to release statistical information to match the claim.

### **7.9 Recommendations**

- **Government needs to pay more attention and a lot more resources towards alleviating problems being faced by the handicapped.**
- **Government should evaluate results of the outdated National Programme of Action and take corrective measures in areas where good results were lacking.**
- **Government should take immediate steps to legislate against customary practices that are repugnant to good conscious and natural justice, including prosecution of any person that forces a child into an early marriage.**
- **Government should provide more medicine for all pediatric wings of hospitals including those in rural areas.**
- **Government should make full use of statistical information gathered.**

## **8.0 CHAPTER 7 - EDUCATION LEISURE AND CULTURAL ACTIVITIES**

### **Article 28**

**The child has a right to education, and the state's duty is to ensure that primary education is free and compulsory, to encourage different forms of secondary education accessible to every child and to make higher education available to all on the basis of capacity. School discipline shall be consistent with the child's rights and dignity. The state shall engage in international co-operation to implement these rights.**

### **8.1 Education, Vocational Training and Guidance ISPR PG 63**

Government has made pronouncements and there appears to be moves toward the enforcement of free basic education. The present infrastructure, however, is insufficient to accommodate the expansion plans. A lot of resources will need to be directed into the education sector. The government pronouncements should be reflected into actions.

Due to the mushrooming of pre-schools of questionable intentions, especially in urban centers, and in view of government's insufficient funding of local government moves towards the enhancement of pre-school education may not achieve the desired goals. There is a great need for government to get more involved in ensuring quality assurance through the strengthening of the inspectorate departments at local government level.

### **8.2 Objectives of BESSIP ISPR PG 66**

The Basic Education Sub-Sector Support Program (BESSIP) is a project designed to improve equity, access, and equality of basic education mainly through enhanced provision of education materials, curriculum reforms, improved pedagogy, attention to health and nutrition, and strengthening training for teachers. However, BESSIP is not a homegrown programme and is almost wholly funded by co-operating partners.

Government should show ownership of the programme through sufficient direct support and funding.

### **8.3 Books and Desks ISPR PG 69**

We acknowledge government's attempts to supply equipment, infrastructure and learning materials to schools. Indicators are that rural based schools remain largely incapacitated in terms equipment and infrastructure and thence need for prioritizing rural areas. There is need for government to prioritize distribution to rural schools and due consideration to be made for the **handicapped**. The need for quality assurance calls for strengthening of the inspectorate department of the Ministry of Education.

### **8.4 Special Education ISPR PG 73**

A lot of facilities offered by schools do not take into consideration the plight of the handicapped. More accessible facilities need to be introduced in schools by government.

### **Localization of curriculum ISPR PG 77**

Centralized planning of the curriculum has in the past ensured a level of education that has been satisfactory. Decentralizing preparation of the curriculum may bring about gaps and lack of standardization with regard to acquisition of knowledge by children and the subjects so affected by the policy.

### **8.5 High School Curriculum ISPR PG 77**

The Action for Improvement of English, Mathematics, and Science (AIEMS) program is a ministry of education initiative designed to improve the teaching of such subjects at all levels. The AIEMS programme is appreciated. However it has been observed that little or no equipment exists for the effective teaching of science subjects. For instance beakers, test tubes and chemicals required for chemistry are no longer readily available in schools.

Government's recognition of the lack of sufficient places in territory educational institutions is appreciated. However there appears to be no moves or suggested solutions to redress the programme. Government should set up a time frame for improving existing infrastructure to meet the demand posed by the ever-increasing numbers of graduates, and construction of more colleges.

### **8.6 Special Issues in Education ISPR PG 79**

In a lot of schools in rural areas the multi grade system has been applied. In such situations children of varying grades are grouped in one classroom



under the tutorage of one teacher. The system is not only cumbersome for the teacher but does not facilitate growth in the educational standards of the children.

Government is being called up to enforce incentives for teachers to relocate to rural areas and help alleviate the shortage currently being experienced.

### **HIV/AIDS officer**

The efficacy of the office of the Deputy Chief Education Officer is desired. We implore government to facilitate and improve services offered in the area of HIV/AIDS training in schools and in doing so build on the capacity of leaders to effectively carry out their functions.

Government has given away almost all recreational areas to land developers and thereby denying children areas for such activity.

### **Recreation ISPR PG 89**

Government should identify and establish parks for children. Community halls that have been given up for other usage should be repossessed and prepared for use by children.

A number of parks have now been turned into privately owned drinking areas for adults

## **8.7 Recommendations**

- **Redirect more resources towards education.**
- **In ensuring quality assurance strengthen the pre-schools inspectorate at local government level by providing more direct funding.**
- **Provide more direct funding towards the BESSIP programme.**
- **Improve and increase on the disbursement of schools materials to rural areas and encourage location of teachers to rural areas by providing incentives.**
- **Improve the state of colleges and construct new ones in order to address the demand brought about by the increase in the numbers of graduates.**

## **9.0 CHAPTER 8 - SPECIAL PROTECTION MEASURES**

### **Article 22**

**Special protection shall be granted to a refugee child or to a child seeking refugee status. It is the state's obligation to co-operate with competent organizations that provide such protection and assistance.**

### **9.1 Refugee Children ISPR PG 92**

Zambia is signatory to many international conventions including the CRC and Geneva Convention and yet the conventions have not all been domesticated. It is apparent from reading the admission of existing lapses in the law that provisions of the CRC, among other conventions, is not being enforced. Among the many rights not conferred on refugees is that of property ownership.

Provision for appeal is not accorded a refugee who is denied refugee status. Although government have alluded to the fact that there is no record of rejection of an unaccompanied child an appeals procedure would act as a safeguard against open handedness by officials ISPR PG 93.

Another apparent weakness in the process is that of centralization of counseling facilities and wrong positioning of the counseling clinic in Lusaka. A majority of the refugees live in camps a great distance away from Lusaka. There is need to deploy counselors in all refugee centres to help prepare refugees for adjustment and, when the time comes, for repatriation. Further, the CRC must be heavily publicized in refugee centres.

### **9.2 Children in Armed Conflict ISPR PG 96**

Enlistment in the armed forces is voluntary however government has been making pronouncements on the re-introduction of national service. Should the programme be re-introduced the need to follow strict international rules and exclusion of children from all forms of military

**A Government Minister in November 2002 was quoted by the press as having stated that street children would be sent to National Service Centres for training. Times of Zambia.**

training will need to be observed.

### **9.3 The Administration of Juvenile Justice ISPR PG 97**

Provisions may be in existence in the Juveniles Act to prevent the incidence of juveniles associating with adults during detention but the practice on the ground however is almost always the opposite. The Juvenile Centres at which child suspects can be held are inconveniently positioned and serve little purpose especially in cases of on-going trials. In a number of instances, young children have been detained with their mothers in inappropriate prisons and police cells.

Although a child is entitled to legal representation the government legal Aid Department is hard-pressed to satisfy the country's needs. The ill funded and undermanned department lays emphasis on mainly adult criminal matters. A complete overhaul of the department is desired if this right is to be accessed by the children. Very few NGOs are involved in the area of legal representation of children, due to the severe financial constraints and lack of financial support from government.

A lot can be realized towards the achievement of these rights through the total overhaul and increase in funding to the legal Aid Department in order to enhance professionalism and attract more lawyers and other legal workers.

**The juvenile court in Lusaka has been recording an average of five cases per day involving children.**

### **9.4 General Principles ISPR PG 99**

Children continue to be held in the same cells and remand persons with adults regardless of whether they are jointly charged or not. It is only prudent that government should provide an exception to the law by allowing bail for child remandees until such time those convenient centres are built for the purpose of accommodating child remandees.

### **9.5 Children Deprived of their Liberty ISPR PG 101**

Reformatories and approved schools are currently run by the prisons system. No proper co-ordination exists therefore between prisons authorities and ministries involved in the area of

**Ministry of Community Development & Social Services has qualified staff in the area of children's rights unlike the Prisons Service**

welfare of the child. The prisons system is presently under funded and wrongly placed to carry out any rehabilitation programmes with regard to juvenile offenders. The Ministry of Community Development & Social Services as well as Ministry of Sport, Youth & Child Development are directly involved in the area of children's rights and are therefore better placed to take up the role. Government is requested not only to increase the number of approved schools but also redistribution of responsibilities.

There currently is a pilot project on the juvenile justice system involving one child-friendly juvenile court in Lusaka. The effort by government however requires building upon in order to accommodate at least one child friendly magistrates court in each district.

## **9.6 Drug Abuse ISPR PG 104**

The Drug Enforcement Commission currently handles all rehabilitation aspects including those involving children. The Commission is thus the only actor in the arrest and prosecution of drugs related cases, as well as in rehabilitating of offenders. The rehabilitation programme is conducted from the Drug Enforcement Commission offices. This in our view intimidates the child to be counseled. An ideal situation would be to provide for other qualified institutions to supervise the rehabilitation and remove the programme to properly instituted and established rehabilitation centres.

## **9.7 Sexual Exploitation and Sexual Abuse ISPR PG 105**

Government supervised customary law courts continue to handle cases of sexual abuse of children as civil ones, when the Penal Code (Chapter 87) criminalizes such cases. For as long as a defiler can pay a fine for his actions once sued to a customary law court, cases of the nature will not abate. Government should provide for a law that removes the jurisdiction from local courts of all cases involving children.

Although the Penal Code provides for a life sentence for a defiler, magistrates who are mandated to try such offences have very limited jurisdiction in the award of sentencing.

Measures should be taken by Government to provide for a minimum sentence of 5 years for a defiler, legislate for mandatory HIV/AIDS test for a defiler and shoulder all hospital bills for the victim.

The NGO community commends Government for ascending to the 1996 Stockholm and 2001 Yokohama Agendas for Action against Commercial Sexual Exploitation of children. We however bemoan the absence of definite programme that is time bound and with specific indicators towards curbing the use of children in commercial sexual activity.

**There has been reports of mushrooming guest houses which are operating as brothels with very little effort to regulate or monitor such establishments. There has also been media reports of bestiality and girls been used for pornographic activities.**

### **9.8 Recommendations**

- **Domesticate the Geneva Convention**
- **Introduce an appeals procedure for refugee applicants**
- **Immediately effect the separation of child remandees from adult ones.**
- **Re-organize and provide sufficient funding to the Legal Aid Department.**
- **Introduce bail for child suspects for all crimes.**
- **Establish child friendly courts and approved schools at strategically located centres.**
- **Establish rehabilitation centres for drug users and relocate the responsibility to the Ministry of Community Development & Social Services.**
- **Remove jurisdiction from customary law courts of all matters concerning children.**
- **Design and implement definite and specific programme of action towards the 1996 Stockholm and 2001 Yokohama Agendas.**

## **NGO WAYFORWARD**

The NGO Community through the organizations that participated in the development of this report wish to inform the committee on the following measures as way forward with regard to CRC implementation:-

1. Immediately constitute a pressure group through CHIN that will conduct advocacy and lobby action through meetings with parliamentarians and high ranking Government officials with a view of fostering action.
2. Ensure an active focal point mechanism that will monitor and track future implementation of the CRC and act as watchdog to ensure reports are done timely.
3. Advocate for and ensure public awareness on the provisions of the CRC and other such instruments that Zambia has committed itself to.

## **10.0 CONCLUSION**

Government continues to pay lip service towards addressing the many problems that children face. Much of the data contained in the Government's Initial and First Periodic Report is either outdated, not implemented, or is impractical.

Although recognition should be dually paid to the government in its efforts to re-evaluate policy and sponsor programs, the major deficit lies in the actual implementation of such. Without said implementation, Zambia is not achieving the intended outcomes that should be expected in adopting the principles of the Convention of the Rights of the Child.

There is need for government to show commitment towards children's issues. There is need for constant/periodic constitution review to ensure the constitution conforms to internationally acceptable standards as stipulated in the conventions Zambia has ratified.

It is also imperative for government to prioritize children's issues in policy formulation and review, which should be reflected in budgetary allocations and time bound commitments with specific outputs.

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