

**REPORT OF THE ACERWC ON THE FOLLOW-UP MISSION CONDUCTED TO  
MONITOR THE IMPLEMENTATION OF ITS CONCLUDING OBSERVATIONS AND  
RECOMMENDATIONS TO THE REPUBLIC OF ZAMBIA**

**19-21 JUNE 2023**

**October 2023**

1. **Purpose of the Mission:** The purpose of the Mission was to assess the level of implementation of the concluding observations and recommendations issued by the African Committee of Experts on the Rights and Welfare of the Child (ACERWC/the Committee) to the Government of Zambia following the consideration of the latter's initial report on the implementation of the African Charter on the Rights and Welfare of the Child (ACRWC/the Charter) in 2018. The ACERWC would like to take this opportunity to express its appreciation to the Government of Zambia for welcoming its Delegation to undertake the follow-up mission in the State Party.
2. **Objectives of the ACERWC in this Mission:** The Mission aimed at undertaking a constructive dialogue with representatives of the Government of Zambia to take note of the progress achieved, challenges faced, and available opportunities to ensure the effective implementation of the ACERWC's concluding observations and recommendations. The Committee also intended to bring stakeholders together to boost collaboration between the Government, UN agencies, CSOs, and other stakeholders. Moreover, the Committee sought to enhance and accelerate the implementation of its recommendations and to ensure that the reporting cycle is maintained.
3. **Output of the Mission:** The Mission provided the Government of Zambia an opportunity to appreciate its progress in implementing the recommendations and thereby learn best practices that the Committee can use in further engagement with other State Parties. Moreover, the Mission created an opportunity for the Government to identify and address its challenges in implementing the recommendations of the Committee. Additionally, the Mission created an opportunity to sensitize various organs of the Government as well as other stakeholders about the Charter, the Committee and the Structure and Process of the State Party Reporting Procedure. Finally, the Mission also enhanced the continued commitment from the Government of Zambia to implement the recommendations and the provisions of the Charter as well as to submit its periodic report in the foreseeable future.
4. **Delegation:** The Delegation of the ACERWC was composed of Hon. Aver Gavar, Head of the Delegation and Country Rapporteur for Zambia ; Hon. Anne Musiwa, Vice-Chairperson of the ACERWC ; Ms. Catherine Wanjiru Maina, Officer-In-Charge of the Secretariat of the ACERWC, Mr. Philippe Sekone, Senior Child Rights Officer; Dr. Ayalew Getachew Assefa, Senior Child Protection Officer; Mr. Kameni Ngankam, Communication Officer ; Mr. Mwatula Chiti, Administrative Assistant ; and, Ms. Aline Nininahazwe, Legal Researcher at the Secretariat of the Committee.
5. **Methodology:** The ACERWC's Delegation had constructive discussions and bilateral meetings with representatives of the Government, UN Agencies, CSOs and children's representatives; as well as a consultative workshop in the presence of all stakeholders including representatives of the Government, UN Agencies, CSOs and children's representatives.

## **6. Mission activities**

### **6.1. Courtesy Calls**

The Delegation paid courtesy calls to the Assistant Director- International Organisations of the Ministry of Foreign Affairs and International Cooperation, Ms. Theresah C. Luswili Chanda on 19 June 2023 and to the Permanent Secretary of the Ministry of Community Development and Social Services (MCDSS), Ms. Angela Chomba Kawandami on 20 June 2023. During its engagement, the Committee explained the purpose of the mission and the activities it intended to carry out in the Republic of Zambia. Moreover, the Committee requested the Ministry of Foreign Affairs and International Cooperation and the MCDSS to support the mandate of the Committee and ensure that the government of Zambia complies with its obligation to submit its periodic report to the ACERWC. Both the Assistant Director and the Permanent Secretary expressed their sincere willingness to support the mandate of the Committee and ensure that the government of Zambia submits its periodic report before the end of 2023.

### **6.2. Consultation with Various Ministries and other stakeholders**

On 19 and 20 June 2023, the Committee had meetings with representatives of various Ministries and partner organizations, including:

- i. Ministry of Community Development and Social Services (MCDSS) ;
- ii. Ministry of Justice ;
- iii. Ministry of Education ;
- iv. Ministry of Labour and Social Security;
- v. Ministry of Foreign Affairs and International Cooperation
- vi. Ministry of Local Government ;
- vii. Zambia Statistics Agency ;
- viii. Zambia Human Rights Commission ;
- ix. UNICEF Zambia ;
- x. National Child Rights Coalition ;
- xi. Joining Forces Alliance ; and,
- xii. Children living in the SOS Children's Village.

### **6.3. Workshop on the situation of children in Zambia**

One of the activities of the Mission was a consultative workshop on the implementation of the ACERWC's concluding observations and recommendations and the situation of children's rights in Zambia organized by the Committee. The Workshop brought together representatives from various Government Ministries, and other relevant stakeholders including children's representatives, representatives from the National Child Rights Coalition, Joining Forces Alliance and UNICEF to assess the level of implementation of the ACERWC's concluding observations and recommendations, identify gaps and provide further recommendations to ensure the effective implementation of the ACERWC's concluding observations and recommendations through coordinated efforts. During the opening of the workshop, keynote speeches were delivered by the Children's Representative, the Director of Child Development in the MCDSS and the Head of the Delegation of the ACERWC. The Workshop included presentations from the Secretariat about the Charter and the mandate of the Committee as well as the State Party Reporting Procedure. Moreover, there were

presentations made by both the Government of Zambia and the CSOs on the implementation of the ACERWC's concluding observations and recommendations. Following the presentations, participants had constructive discussions and reflections on what has been done to implement the African Children's Charter as well as the ACERWC's concluding observations and recommendations and what should be done to improve the situation of children's rights in Zambia.

## **7. MAJOR FINDINGS OF THE MISSION**

During the follow-up mission on the ACERWC's concluding observations and recommendations, the Committee notes the following main findings on the status of the implementation of its recommendations in particular and the implementation of the Charter in general.

### **7.1. On General Measures of Implementation**

#### **Legislation**

The Committee was informed that the government of Zambia has enacted the Children's Code Act (CCA) No.12 of 2022 which addresses the major observations that were highlighted in the ACERWC's concluding observations and recommendations on the Initial Report of the Republic of Zambia on the status of implementation of the ACRWC. The Committee was also informed that following the enactment of the CCA, the government organized meetings with key line Ministries to develop work plans and budgets for the implementation of the CCA and has launched the CCA in six (6) provinces namely; Central, Copperbelt, North-Western, Muchinga, Northern and Luapula Provinces. Despite the initiatives that were undertaken by the government, it was indicated that implementation of the CCA remains an area of concern. It was, therefore, noted that there is an urgent need to adopt the necessary measures including, among others, educational measures on the existence of the CCA and its provisions through TV and radio programs and allocate adequate resources to effectively implement the CCA at all levels. The Committee was further informed by the government and other stakeholders that there is a plan to produce a simplified and child-friendly version of the CCA and to translate it into local languages to allow children to access its content and facilitate its dissemination at all levels including in schools, communities and other settings. The Committee welcomes this initiative as it will promote a wider dissemination of the CCA at all levels and in all settings.

Despite the recommendation of the Committee to include children's rights issues in the Bill of Rights, it was noted that this was not done and CSOs are working toward advocating for the inclusion of Children's rights in the Bill of Rights. It was, therefore, indicated that there is a need to continue advocating for constitutional reform with regard to the amendment of the Bill of Rights.

It was also brought to the attention of the Committee that the government of Zambia organised several meetings with various stakeholders including Civil Society Organizations (CSOs) on the ratification of the three Optional Protocols (OP) to the Convention on the Rights of the Child (CRC) such as the OP on the involvement of Children in Armed Conflict (OPAC) and the OP on the Sale of Children, Child Prostitution and Child Pornography (OPSC), and the OP on a Communication Procedure (OPIC). In this regard, the Committee was informed that CSOs have been part of the process through advocacy dialogue with the government to push for progress towards the ratification and there have been some positive initiatives toward

the ratification process as part of internal processes, however, this process is yet to be completed.

### **National Plan on Children**

Zambia has developed and implemented various measures on children such as the National Child Policy (NCP) and the National Plan of Action (NAP) for children, among others. However, the Committee was informed that the NAP for children did not have a costed plan and, therefore, it was very difficult to assess if the budget was adequately allocated. The Committee was also informed that UNICEF is planning to support the review of the NCP and NAP for children and it will ensure that there will be a costed plan as well as a monitoring and evaluation plan of the NAP with clear indicators to assess the impact of the NCP and NAP. The Committee also learned that the government of Zambia has developed a strategy for ending child marriage in Zambia; a national safeguarding framework and a national Child participation framework, among others. However, it was noted that the effective implementation and knowledge of these instruments remain an area of concern and the strategies/frameworks developed depend on the CSOs and donor funding as opposed to the allocation of adequate budget from the government to ensure the sustainability of these initiatives.

### **Coordination**

The Committee notes that Section 36 (1) of the CCA provides for the establishment of the National Coordinating Committee for Children (NCCC) which is responsible for coordination of child development and welfare matters in Zambia. However, the Committee learned that the NCCC is not fully operationalized and adequately funded by the government. To ensure effective coordination, it was noted that there is a need to have the representation of children and other relevant stakeholders in the NCCC. The Committee further learned that there is poor information sharing among government ministries and there remain challenges of financial, technical and human resources with the district, provincial and national child protection structures to effectively execute the child rights mandate and coordinate all the activities related to the implementation, monitoring and reporting on child rights at the cross-sectoral, national, provincial and district levels.

### **Budget**

The Committee was informed that the Ministry of Finance has increased budgetary allocation to the MCDSS for Child Welfare and Child Development Programmes from 5 million to 20 million for the year 2023. The Committee was further informed that there has been an increase in the budget allocation to social sector Ministries such as Health, Education, Gender and Labour and Social Security. However, it was indicated that there is still a need to increase the budget allocation to children's rights to address all child protection issues across all sectors.

### **Disaggregated data on children**

During the mission, the Committee was informed that the government through ZamStats collects and provides disaggregated data on children matters. It was also indicated that the government has embarked on developing a Robust Management Information System (MIS) for children to enhance Data Management, especially on indicator tracking on levels of vulnerability and service provision. However, the Committee highlighted that there is a need to provide recent/updated statistical data that is disaggregated on issues affecting children to inform the development of relevant

interventions and address current children's rights issues. The Committee further highlighted that the disaggregated data on child rights will determine the status of implementation of the African Children's Charter as well as the ACERWC's Concluding observations and recommendations to the Republic of Zambia.

### **Independent monitoring**

The Committee learned that there has been a reduction of the budget allocated to the National Human Rights Commission (NHRC) and this has negatively affected the execution of its mandate. The Committee further learned that the staffing level of the NHRC is at 42 percent and the Commission has been heavily dependent on partners to execute its mandate. Despite the recommendation of the Committee to establish the Office of the Commissioner for Children, the NHRC indicated that it was not be able to establish this office. It, however, indicated that there is a focal person for child rights within the NHRC. It was also noted that this is a positive aspect and starting point that the NHRC can build on to appoint a Commissioner for Children as it was recommended by the Committee.

### **Popularization of the Charter and its monitoring mechanism**

The Committee learned that the government of Zambia in collaboration with the CSOs organized workshops to disseminate the content of the Concluding Observations and recommendations. In this regard, the Committee was informed that the Concluding Observations and recommendations were circulated to all government Ministries and all key stakeholders in the provinces are aware of the recommendations provided therein. Moreover, it was noted that the government has embarked on the popularization of the African Children's Charter through training workshops for the Provincial Child Development Coordinators, Provincial Resource Center Coordinators (PRCCs) and District Resource Center Coordinators (DRCCs), Line Ministries and CSOs. However, it was indicated that there is a need for the government to strengthen the popularization of the Charter, especially in areas outside Lusaka.

### **Reporting on the implementation of the African Children's Charter (Submission of Periodic Report)**

The MCDSS informed the Committee that necessary measures will be undertaken to ensure that the periodic report is submitted to the ACERWC by 15 December 2023. In this regard, UNICEF Zambia highlighted that it will provide technical support to ensure that the first periodic report is submitted to the ACERWC.

#### **7.2. Definition of the Child**

The Committee notes that the CCA and Constitution of the government of Zambia defines a child as 'a person who has attained, or is below, the age of eighteen years'. Moreover, the Committee was informed that the Penal Code Cap 87 has been amended to raise the minimum age for criminal responsibility to 12 years; the Juveniles Act Cap 53 which defined a child as someone below the age of 16 has been repealed; and, Section 18 of the CCA prohibits child marriage. During its engagement with various stakeholders, the Committee was further informed that the process of harmonizing Statutory and Customary laws is underway and all pieces of legislation related to children's rights that are inconsistent with the CCA and the Constitution are being addressed. In this regard, the Committee notes that there is a need to engage with all relevant stakeholders to speed the process of harmonizing all pieces of

legislation related to children's rights with the CCA and article 2 of the African Children's Charter.

### **7.3. General Principles**

#### **i. Non-discrimination**

The Committee was informed that the CCA is anchored on the principle of non-discrimination and it prohibits all forms of discrimination against children (Section 7 of the CCA). The Committee was further informed that the Disability Act is in place, the revision of the 2015 National Disability Policy is underway and the government through the Ministry of Education (MOE) has introduced inclusive education and developed a Statutory Instrument (SI) that emphasizes on the construction of infrastructure which takes care of the needs of children with disabilities. However, it was brought to the attention of the Committee that children with disabilities continue to face discrimination as most infrastructure is not disability-friendly; many children with disabilities are not in schools; and, teachers are not trained in sign language to adequately assist them.

Furthermore, the Committee learned that the government has taken various measures to raise awareness on the rights of Children with Albinism (CWA) during the commemoration of the International Day of Albinism. However, the Committee learned that CWA are still discriminated against and stigmatized within their families and communities and it was noted that there is a need to take urgent actions to respond to the issues of CWA. Moreover, the Committee was informed that there is no discrimination with regard to children out of wedlock as the illegitimate Act has been repealed following the adoption of the CCA. Concerning the discrimination against children with Muslim backgrounds, the Committee was informed that this has been addressed in Section 7 of CCA. However, the Committee notes that additional measures including administrative, social and educational measures, among others, need to be implemented to address all forms of discrimination against children.

#### **ii. Best interests of the Child**

The Committee was informed that the CCA is premised on the best interest of the child and Section 3 (1) states that a child's best interest is the primary consideration in all matters or actions that concern a child whether undertaken by a public or private body. However, the Committee noted that there is a need to take additional measures to ensure that relevant stakeholders understand the principle of the best interests of the child for it to be applied at all levels and in all matters that concern a child.

#### **iii. Right to life, survival and development**

The Committee learned that there has been increased coverage in immunization of children and increased access to clean water and sanitation at the community level. However, the Committee was informed that water resources are usually found very far from where people live and long distances to fetch water and firewood highly expose girls to various forms of violence. Moreover, the Committee was informed that nutrition interventions have been scaled up through a multisectoral approach to reduce stunting among children under five. Government officials further told the Committee that the State Party is implementing a Food Security Pack for vulnerable households; women's empowerment is in place to address malnutrition in households, and the Social Cash Transfer programme targeting vulnerable families has been expanded. It was noted that the Government allocated K4.7 billion to identifiable nutrition programmes in 2023, which translates to 2.8 per cent of the overall budget. The Committee was also

informed that under-five child mortality is going down; however, it was highlighted that the State Party still has high cases of stunting and malnutrition in some parts of the country; child mortality is still very high; and, there are cases of disease outbreak in different regions. It was also noted that there is a need to progressively increase the budget allocation to children's right to life, survival and development in Zambia, especially on nutrition-specific interventions.

**iv. Child participation**

The Committee notes that the CCA under Section 4 (e) states that there should be child participation and respect for the views of a child in all spheres of life. The Committee also notes that the government of Zambia has launched the National Child Participation Framework to enhance children participation in all decision-making processes and in all matters that concern them. It was also noted that the government of Zambia in collaboration with the CSOs has increasingly facilitated the institutionalization of child participation by strengthening child participation structures through child rights clubs and children's summits over the years that have been held with cross-section of children from all provinces of Zambia. However, it was noted that the children's Parliament is not fully operationalized; children's views are not given due weight or taken seriously in various settings, and, there are few decision-making spaces at the district and provincial levels for children's participation.

**7.4. Civil Rights and Freedoms**

**i. Name, Nationality and registration at birth**

The Committee was informed that there has been significant progress in strengthening birth registration and certification. In this regard, it was noted that there is a new strategy, running from 2021 to 2025, targeting birth registration to 50% by 2025 and the government has continued to decentralize birth registration including certification in line with the revised Birth Registration Act. It was further noted that awareness campaigns on birth registration have been heightened and health facilities across the country have established birth desks to bring birth registration closer to the communities. In this regard, it was noted that 806 registration centers in health facilities linked to the birth desk for birth registration and all provincial centers can now print birth certificates. It was also noted that decentralization of the issuance of the certificates to the province, as well as a digitalization project with prioritization given to the rural areas, have been put in place to simplify access to birth certificates, and as a result, many children were able to be registered and received their birth certificates. However, the Committee learned that most decentralised registration centers are poorly equipped to assist communities effectively. It was also noted that there is limited awareness of the importance of birth registration. Consequently, most children are not registered and do not have birth certificates.

**ii. Freedom of expression, conscience, thought, religion, assembly and protection of Privacy**

The Committee was informed that the government has continued to raise awareness of the rights of children including children's freedom of expression, conscience, thought, religion, assembly and protection of privacy through the mass media and community meetings. The Committee notes that the government needs to continue raising awareness among various service providers and other relevant stakeholders at the family, community, district, provincial and national levels concerning these rights



and ensure that these rights are effectively protected in the online and offline environments for all children and all settings.

### **iii. Protection against abuse and torture**

The Committee was informed that the government of Zambia had developed the National Prevention and Response Plan on Violence Against Children (VAC) 2021-2025 to reduce the prevalence of all forms of VAC and ensure that children who experience violence have access to appropriate care, support and services. The Committee was further informed that the government has enacted the Cyber Security and Cyber Crimes Act No. 2 of 2021 and has developed the National Child Online Protection Strategy (COPS) and the National Cyber Security Strategy 2021 to ensure the safety of children in cyberspace. However, it was noted that there are no dedicated budget lines to deal with these issues. Moreover, the Committee was informed that the Juveniles Act which allowed the canning of children as a form of punishment has been repealed and the CCA under Section 22 prohibits corporal punishment and other forms of abuse and torture against children in all settings. However, the Committee was informed that corporal punishment is still practiced at home, in schools and in other settings.

Furthermore, it was brought to the attention of the Committee that the government of Zambia has developed the National Child Safeguarding Framework (NCSF) to guide organizations and institutions on how to develop their respective child-safeguarding policies and guidelines. The NCSF, which enhances child safeguarding at all levels and in all settings, aims to guide the behaviors or conduct, of both state and non-state actors at all times and in all actions and decisions and ensure that they act in the best interest of the child or they do not expose children to the risk of harm, violence, abuse or exploitation. Moreover, the Committee learned that there is a toll-free line for reporting cases of child abuse and the government has developed the National Guidelines on reporting incidences and matters of concern on child safeguarding to promote reporting of all cases of child rights violations. Considering that children in Zambia continue to experience various forms of violence, it was noted that there is a need to ensure that those who commit VAC are held accountable and every institution caring for children has a child-safeguarding framework. It was also highlighted that under the child protection units of Zambia police, there are Victim support units to assist children who are victims of various forms of abuse and the police do not wear uniforms when they are handling children for them to be comfortable. It was further noted that there are one-stop centres located in hospitals to provide comprehensive services to children victims of sexual abuse including clinical care, psychosocial support and counselling, legal advice and referrals to safe spaces for survivors unable to return home immediately. However, it was noted that there is a need to allocate adequate resources to the Victim Support Units and one-stop centres and take measures to increase the presence of these services in the communities; and, ensure that all service providers in these units and centres are well-trained on child rights issues to provide child-friendly services.

Moreover, the Committee was informed that several government institutions and services are in place to treat and support victims of VAC such as the Community Welfare Assistance Committee and Community and District Child Protection Committees and other online services. It was, therefore, indicated that children and other key stakeholders can utilize these institutions to report any child rights violation. However, it was noted that there is a need to strengthen the coordination of districts

and community response systems to ensure that children receive appropriate care and protection.

#### **7.5. Family environment and alternative care**

The Committee notes that the CCA has provisions related to parental responsibility, domestic adoptions and inter-country adoptions and children in need of alternative care, support and protection. Moreover, the Committee was informed that the government of Zambia has developed a statutory case management handbook to support children in need of care and protection; alternative care of children and reintegration guidelines; and, a guidance note for children in alternative care to guide in the implementation of the case management process for children identified to be in need of alternative care, or being cared for in alternative care to facilitate their reintegration. It was brought to the attention of the Committee that the government policy is that children should be raised in family settings and institutional care should be a measure of last resort and for a short period. It was also noted that Zambia has adopted the National Social Protection Policy under the MCDSS to reduce the level of poverty, inequality and vulnerability of families. However, the Committee was informed that children are overstaying in institutional care and it was highlighted that there is a need for the government to take additional measures to support family and community-based care and intensify efforts to prevent and address conditions leading to the separation of children from their parents or primary caregivers, especially for families living in extreme poverty. It was further noted that the Constituency Development Fund (CDF) has been increased to improve/strengthen the family environment and alternative care. However, it was noted that little data is collected to assess the impact of CDF; the limited capacity of human resources to manage the CDF and delayed disbursement of funds hindered project completion and effectiveness. To address the issue of corporal punishment and other forms of VAC at home, the government conducted awareness-raising activities to address violent parenting and promote a non-violent environment.

Moreover, the Committee learned that there is a Commission of alternative care provision in Zambia that is working very closely with the MCDSS to monitor the progress that is being recorded concerning the provision of alternative care. The Committee also learned that a campaign was launched to promote the deinstitutionalization of children to raise more awareness around it and start moving children to homes. It was also noted that there is a need for the government to provide alternative care grants to take some children in alternative care rather than keeping them in institutions.

#### **7.6. Health and welfare**

The Committee was informed that the National Health Insurance Management Authority has been established to spearhead universal healthcare coverage by implementing the National Health Insurance Scheme (NHIS). The Committee was also informed that 10,000 health workers were recruited in 2022 to address the shortage of manpower. It was also brought to the attention of the Committee that there has been capacity building of health personnel to improve the quality of health service provision to the citizens. Concerning HIV/AIDS, the Committee was informed that there has been robust programming across the country to eliminate mother-to-child transmission and, as a result, there has been a recent reduction of transmission cases of about 8%. However, the Committee was informed that teenage pregnancy is very high in the State

Party and access to Sexual and Reproductive Health Rights (SRHR) information and services among adolescents remains an area of concern. It was noted that the CSOs have been engaging traditional and religious leaders, families and parents to ensure that adolescents have access to age-appropriate SRHR information and services. However, it was noted that there has been resistance from traditional and religious sectors to ensure that adolescents have access to such services.

### **7.7. Education, leisure and cultural activities**

The Committee learned that the government of Zambia has adopted the Free Education Policy that guarantees free primary and secondary education. The provision of free education from grades 1 to 12 increased access to education for more children in 2022. The Committee also learned that the government expanded early childhood development by establishing community schools in rural areas closer to the communities. To enhance pupil attendance and nutrition among pre and primary school learners, the government has continued funding Home-Grown School Feeding Programmes; and, to address the problem of teacher-pupil ratio, the government recruited 30,000 teachers in 2022. Furthermore, the Committee learned that the government continued to implement the Keeping Girls in Schools (KGS) to ensure that girls remain in schools through the provision of Grants and there has been distribution of sanitary pads to all eligible female learners studying in government schools across all 116 districts in the country. Moreover, during the mission, the Committee learned that through the support of the World Bank, the government constructed 82-day secondary schools in 7 provinces to increase the accessibility to secondary education. The Committee further learned that there have been other interventions, including the Education Enhancement Project, which strengthens the quality of teaching, learning material and the building of school infrastructures; school feeding programs in public/government schools for both primary and secondary schools (with a focus on primary schools) in 70 districts with 2 million learners in about 5128 schools. However, it was noted that the limited infrastructure in rural areas affects the quality of education, long distances to schools and low transition rates from primary to secondary school remain serious issues. It was, therefore, noted that there is a need to increase the budget allocation to the education sector to invest in school infrastructure and increase the number of school materials and equipment to respond to the increased numbers of children in schools adequately.

Moreover, the Committee was informed that the Education Act No. 23 of 2011 under Section 18 criminalizes marrying a student or withdrawing children from school for purposes of marriage. However, it was brought to the attention of the Committee that the school dropout rate for girls is very high due to teenage pregnancy, child marriage and other discriminatory traditional and cultural practices. To reduce the prevalence of teenage pregnancy, the government of Zambia has introduced comprehensive sexuality education in schools. However, it was noted that teachers were not oriented and capacitated as they were teaching according to their understanding. Moreover, the Committee was informed that the government had adopted the re-entry policy to allow teenage mothers and girls who get pregnant to return to school and complete their education. The CSOs, who are also members of the Network of Ending Child Marriage in Zambia, have been engaging at the community level to ensure that pregnant girls can continue their education. The Committee notes that girls usually get pregnant as a result of sexual abuse and exploitation; however, the adults who impregnate girls are not held accountable. It was, therefore, noted that there is a need to increase advocacy and sensitization programs against teenage pregnancy, child marriage and other

traditional harmful practices to promote girls' education and ensure that those who violate children's rights are held accountable.

## **7.8. Special Protection Measures**

### **a. Migrant and refugee children**

The Committee learned that the government of Zambia in collaboration with UNICEF has developed the migrant children case management guidance note for social welfare officers to ensure that migrant children in Zambia receive adequate protection, support and sustainable care arrangements. The Committee also learned that measures have been put in place to improve the facilities in refugee camps for the benefit of children and their families. The Committee further learned that there have been capacity-building interventions on the best interest determination of migrants, refugees and asylum seekers children using the Child's rights approach for frontline officers such as immigration officers, police, and magistrates. Furthermore, the Committee notes that the CCA recognizes that migrants and refugee children are entitled to appropriate protection and humanitarian assistance in accordance with the Refugees Act and any other relevant written law. Moreover, the Committee learned that CSOs are working with the MCDSS to complement the government's efforts through the provision of counselors who speak Amharic, Swahili and other African languages to support migrant and refugee children and provide interpretation services for both the government and children, especially in the Court of Law.

### **b. Children in conflict with the law**

The Committee notes that the CCA provides for the care and protection of children in conflict with the law and the establishment of the Children's Court. Despite the provisions of the CCA on the establishment of Children's Courts, they are not children's courts except the two courts that are being piloted in some districts. It was, therefore, noted that additional measures need to be undertaken to ensure that the children's courts are rolled out in other districts and fully operationalized in the entire country. The Committee was also informed that High Courts are mandated to handle all children-related matters; however, there are few High Courts in the country and judges and magistrates are not well-trained to effectively manage children's rights issues. As most places do not have high courts, children use the same courts as adults. For instance, if a child is in the rural district, he can utilise whichever Court in that area; the latter needs to be constituted as a Children's Court. To improve access to justice, it was noted that there is a need to improve the infrastructure and ensure that all Courts in rural and remote areas have judges who can assist children. Moreover, the Committee was informed that the CCA guarantees the child's diversion as the first measure of resort for children who come into conflict with the Law. However, it was noted that diversion is not sufficiently used in practice.

The Committee was also informed that there is a lack of infrastructure that is child-friendly, and children are still detained with adults as the Zambian correctional centres and other facilities are overcrowded, and children and adults are often housed and transported together. This situation increases the risk of sexual and physical violence as the overcrowded cells have poor accommodation and other issues. Exposure to violence and injury, together with lower access to adequate health care services and engagement in high-risk behaviours underline some health issues that children with conflict with the law are facing in Zambia. It was noted that the common health problems among children in conflict with the law include HIV/AIDS, Sexually

Transmitted Diseases (STDs), and, inadequate healthcare system to effectively respond to various health needs of children in conflict with the law. It was also noted that children in conflict with the law are more likely to struggle with mental health, alcohol and substance abuse issues, and they are also facing challenges in terms of access to quality education and vocational training. The Committee was informed that the government of Zambia has developed a guidance note for children in conflict with the law to ensure that relevant stakeholders in the justice system provide the most appropriate services to children who come in conflict with the law. The Committee was also informed that the Legal Aid Board has received an increased budget of around 30% as of 2022. However, it was noted that there is a need to implement the Legal Aid Act effectively, allocate adequate financial resources to implement it fully, and provide children with free legal aid. Moreover, the Committee learned that the rehabilitation schools for children in conflict with the law are reformatory and approved centres and Zambia Correctional Service Act No. 37 of 2021 mandates the Zambia Correctional Service to provide rehabilitation of children in conflict with the law. In this regard, it was noted that there is a need to provide adequate resources to Zambia Correctional Service to execute its mandate effectively and efficiently.

### **c. Children of imprisoned parents and caregivers**

Zambia Correctional Services Act No. 37 of 2021, under its section 30, indicates that children of incarcerated mothers may be admitted into incarceration or correctional facilities and be provided with the necessities and care for the child. In this regard, the Committee learned that children under four can be incarcerated with their mothers, except when the child welfare inspector decides otherwise considering the best interest of the child. The Committee further learned that the government of Zambia has developed a case management guidance note for social welfare officers on children of imprisoned parents and caregivers to assist child welfare inspectors in identifying and addressing the needs of children at the pre-trial stage of their mother, during the mother's incarceration and her repatriation. However, the Committee was informed that there is no national data on the number of children living in incarceration settings with their parents and caregivers. The Committee was also informed that no extra food (special diets) is provided for children as they eat on their mother's food, which is not a balanced diet for children. It was also noted that clothing, bathing facilities and soaps are not provided for children and no special accommodation is provided for young children who accompanied their mothers to correctional facilities. It was also noted that in some cases the child may be released ahead of the mother due to the age limit and the latter will need to be placed with another parent or relative, in foster or institutional care.

### **d. Child Labour and Exploitation**

The Committee notes that Section 13 of the CCA protects children against child labour and prohibits economic exploitation or any work that is hazardous or likely to interfere with the child's education, physical or mental health, spiritual, moral, emotional or social development. The Committee further notes that there is a National Action Plan for the Elimination of the Worst Forms of Child Labour 2020-2025 adopted by the Ministry of Labour and Social Security; and through this Ministry, the government has intensified inspections to ensure compliance with the Employment of Young People's Act. The Committee was further informed that the government in collaboration with the CSOs is undertaking various awareness campaigns and sensitization programmes on the dangers of child labour and children involved in child labour are being withdrawn

and enrolled in schools. It was also brought to the attention of the Committee that the government, through the Ministry of Labour, has established District Child Labour Committees and Community Child Labour Committees, which are undertaking child labour monitoring in respective communities to ensure that children are not involved in any form of child labour and vulnerable families are being linked to social protection programmes as a way of addressing child labour. However, it was noted that labour inspectors do not routinely inspect non-registered businesses in which child labour is known to occur. It was also pointed out that children are involved in mining, especially small-scale mining and prominent industries in Kabwe and other mining areas. This negatively affects their livelihood as the mining companies are polluting water, the landscape and the environment around these areas. The government, in collaboration with the CSOs, came together to mitigate the impact of this issue by offering remediation and cleaning up the environment as well as compensation to affected communities. It was noted that the government formed a Committee under the Ministry of Rural Economy to address this contamination issue and ensure that the mining companies in these areas are held accountable. It was also noted that the Kabwe case has been taken to Court, and this is still a concern as a lot of children living in these contaminated areas continue to have disastrous effects and face harmful impacts on their rights and no meaningful work has been undertaken to remove the source of contamination and hold the mining companies accountable.

#### **e. Harmful practices**

The CCA under Section 18 prohibits the practice of child marriage and other harmful traditional practices that negatively affect the child's life, health, social welfare, dignity, and physical and psychological development. During its engagement with various stakeholders, the Committee was informed that the government in collaboration with the CSOs has intensified efforts to address the problem of child marriage through awareness raising programmes and engagement with traditional leaders. The Committee was also informed that the government of Zambia has adopted a National Strategy on Ending Child Marriage 2016 – 2021 to address child marriage issues and it has developed a case management guidance note on child marriage for social welfare officers to guide key stakeholders on how they can support children at risk of child marriage, those who are already married, who wish to leave the marriage or who have already left the marriage. It was noted that child marriage affects more girls than boys and those living in rural areas are more affected than those in urban areas. It was also noted that in Zambia, there are three different types of marriage such as marriage among peer adolescents starting at age 11 for girls and 14 for boys, usually with an age difference of about two to three years; intergenerational marriages where an adolescent girl is married to an older man (in some instances an adult twice her age); and, a marriage to rectify a situation to avoid shame and dishonour to the family for instance teenage pregnancy that leads to marriage as a way of avoiding family shame. The Committee was also informed that in Zambia, there are two types of marriage: customary and statutory. This has caused a conflict in law as statutory law prohibits sexual intercourse with a person below the age of 18 (CCA) and classifies it as an offence called defilement (Section 138 of the Penal Code). Yet, recognition of customary law marriage allows it. Despite the provisions of Section 18 of the CCA that prohibits child marriage; customary law marriage allows child marriage. Based on Statutory law marriage, marriage is regulated by the Marriage Act, Chapter 50 of the Laws of Zambia (Section 17 is related to consent to marriage). It states that to marry, one has to be at least 21 years of age. A person below 21 years needs parental consent

to marry. However, the law does not specify the lowest age at which consent from parents is not acceptable. The law also allows a High Court judge to consent to a child below the age of 16 being married. It was stressed that customary law is widely practiced, especially, in rural areas and deeply rooted in traditions. It was, therefore, highlighted that there is a need to urgently review the Marriage Act and ensure that the customary and statutory law on child marriage is in line with the provisions of the CCA and the African Children's Charter.

#### **f. Children living and working on the street and other vulnerable children**

The Committee learned that the government has increased budgetary allocation to the MCDSS to address the problem of street children. The Committee further learned that the removal, rehabilitation, and re-integration of children in street situations is done with Child protection Officers (Police) and street educators trained in children's rights through the support of various CSOs. Despite the measures that have been undertaken, the Committee learned that an increasing number of children and adolescents are living and/or working on the streets in Lusaka, the capital city, and the other main towns. It was noted that parents sometimes send their children to the streets to beg to contribute to the family income and some children join the streets to escape psychological, physical, or sexual abuse within their households. It was also stressed that there is no statistical and disaggregated data on the number of children working and living on the street.

#### **I. Responsibility of the Child**

The Committee notes that the CCA provides for the rights and responsibilities of the child. The Committee also learned that the government of Zambia in collaboration with the CSOs is organizing sensitization campaigns to raise awareness to the communities, traditional and religious leaders, parents, children and other key stakeholders about children's rights and responsibilities.

#### **8. Actions points**

Based on the abovementioned findings, the Committee recommends the State Party to undertake the following measures to implement the concluding observations and recommendations of the Committee as well as the provisions of the Charter:

- Expedite the harmonization of laws and consequential amendment of other laws to be in line with the CCA and African Children's Charter;
- Expedite the constitutional legislative amendment with regard to the Bill of Rights to include children's rights issues;
- Allocate adequate human, technical and financial resources to the NCCC to regularly organize coordination meetings at all levels and ensure the effective coordination of all children's rights initiatives at the national, provincial and district levels;
- Strengthen the capacity of the NCCC, Provincial/District and Community Child Protection Committees and other relevant stakeholders to implement children's rights at all levels effectively;
- Provide updated and disaggregated data on children to inform the development of national policies and programmes that specifically address current child rights issues and needs;

- Expedite the internal process to ensure the ratification of the three OP on the CRC and take concrete steps to implement the provisions enshrined in these instruments at the national and local levels;
- Allocate adequate human, technical and financial resources to the NHRC to effectively execute its mandate and establish the Office of the Commissioner for Children to address all children's rights issues in a child-sensitive and child-friendly manner;
- Draft and submit the periodic report of the Republic of Zambia on the status of implementation of the African Children's Charter;
- Develop and implement guidelines for the best interest determination to be used by child rights actors from all settings;
- Urgently take all appropriate measures to provide adequate food and nutrition to children and prioritize the treatment of children who are suffering and are likely to suffer from malnutrition;
- Intensify efforts to address issues affecting the life, survival and development of children such as child mortality; HIV/AIDS mother-to-child transmission; disease outbreak and access to clean water and sanitation, especially in rural and remote areas;
- Allocate adequate resources to ensure the full operationalization of Children's Parliament; take concrete actions to implement the National Child Participation Framework effectively; and, ensure that children's views are considered in all decision-making processes, including at the family, community, district, provincial, sub-national and national levels;
- Establish mobile registration centers in schools and in other settings to ensure the registration of all children, including the registration of children born out of health facilities, particularly in rural areas;
- Ensure that all cases of VAC are promptly reported, investigated and prosecuted and children have access to effective remedies and reparations for the violation of their rights;
- Provide parents, teachers and other service providers with knowledge and skills to guide children's behaviour without resorting to corporal punishment at home, in schools and in other settings and ensure the prohibition of all forms of corporal punishment or violent forms of punishment against children in all settings;
- Conduct a mid-term review of the National Prevention and Response Plan on ending VAC (2021-2025) as well as the NAP for the Elimination of the Worst Forms of Child Labour (2020-2025) to reflect on the progress made, lessons learned, good practices and provide recommendations for improvement and areas that require change;
- Ensure that specialized Children's Courts are rolled out in other districts and they are provided with adequate human, financial and technical resources to effectively assist children in conflict with the law and enhance their access to justice;
- Ensure that the facilities of children in alternative care are child-friendly, clean and hygienic and conduct regular assessments to ensure that their living environment is in a child's best interests;
- Research on the institutionalization and deinstitutionalization of children to influence better policy actions;
- Undertake an impact evaluation of the CDF to measure its impact in communities;



- Allocate adequate resources to Zambia Correctional Service to establish a separate place for children and their incarcerated mothers outside the prison and ensure that they have access to quality public services and basic needs, including, among others, access to early childhood education, child-friendly playgrounds and adequate housing and nutrition;
- Increase the budget allocation to the education sector to support the increased numbers of children coming back to schools with corresponding materials, supplies, equipment and infrastructure expansion; hire additional teachers to reduce the teacher-pupil ratio and ensure the fair and equal distribution of teachers across schools and provinces and identify ways of retaining them, especially in rural and remote areas;
- Improve access to education for children with disabilities by ensuring that relevant school materials are available on audio recorder, braille and large print and school infrastructure are accessible to them;
- Ensure that community-based volunteers in rural areas are well-trained to provide quality early childhood development in community schools;
- Assess the impact of the National Strategy on Ending Child Marriage 2016 – 2021 and double its efforts to address the root causes of child marriages and other traditional harmful practices affecting children;
- Review the National Strategy on Ending Child Marriage 2016 – 2021 and continue to engage with traditional, community and religious leaders to address child marriage issues and other traditional harmful practices affecting children;
- Effectively implement the re-entry policy at all levels of education by ensuring that pregnant girls and teenage mothers are maintained in the education system;
- Urgently respond to the challenges from the mining operations in Kabwe and other mining areas by ensuring that the source of contamination is contained or removed and families and children living in these areas have access to effective remedies;
- Ensure that inspections on child labour cover all areas in which children work, including registered and unregistered businesses and mining areas and ensure that labour inspectors have sufficient resources to address all child labour issues;
- Conduct a national study on the prevalence of teenage pregnancy in Zambia and make good use of the Committee's Continental study on Teenage Pregnancy in Africa: Status, Progress and Challenges to take note of the best practices from other countries and address all teenage pregnancy-related issues;
- Take all appropriate measures to create child-friendly spaces in all settings where adolescent boys and girls can access child-friendly SRHR information and services;
- Provide quality public services, psychological recovery and counselling services as well as diversion programs for children in conflict with the law;
- Develop a NAP on children living and working on the street to respond to their various needs and child rights issues adequately;
- Address the root causes of children's rights issues in Zambia by developing effective social protection and poverty reduction programs for children and their families to reduce their intersectional vulnerabilities; and,

- Take concrete measures to ensure that all the guidelines on children's rights matters are translated into local languages and in real services that benefit and positively impact the lives of all children in Zambia.