



MINISTRY OF GENDER AND CHILD DEVELOPMENT

2012 Child protection system mapping & assessment report (Zambia)

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Edwidge K. M. Mutale (Ms)
Permanent Secretary
Ministry of Gender and Child Development

Foreword

It gives me great pleasure as Minister of Gender and Child Development to present the report on the research that was conducted on the child protection system in Zambia.

The purpose of the research was to establish the gaps, strengths and weaknesses in child protection and come up with clear recommendations in order to strengthen the various components of the child protection system, including development of clearly elaborated and user-friendly child protection framework which will facilitate the development of a National Child Protection Policy. The National Child Protection Policy once developed will form a basis for all child protection initiatives and upon which the child protection frame will be anchored.

It is expected that an improved child protection system will provide a mechanism through which families, communities, structures, institutions and society at large will prevent and respond to situations of violence, abuse, exploitation, maltreatment and negligent treatment of children.

The report therefore, provides an opportunity for systematic approach to child protection, providing opportunities for more effective programming, better targeting, effective utilization and maximization of resources, structured coordination of various actors, with the result being the creation of a protective environment for children.



Hon. Inonge Wina MP
Minister of Gender and Child Development





Executive Summary

This report was conducted to provide an extensive assessment designed to map the existing child protection system in Zambia. This process involved unpacking the legislative framework underpinning child protection to understand the depth of coverage provided by both statutory provisions and customary law. The process was guided by a desire to have comprehensive, current and accurate picture of the strengths and weaknesses in the existing system and was designed to:

- Highlight ongoing child protection concerns for children in Zambia
- Map the statutory institutions and structures responsible for child protection in Zambia
- Map the legal and policy framework focused on judicial and social procedures related to investigations, prosecutions and detentions. As part of this process of the assessment the consulting team reviewed customary laws and practices that had a direct bearing on children in Zambia.
- Analyze the children protection systems in terms of assessment, referrals, registration, coordination, information and monitoring processes. This analysis would identify clear roles and responsibilities and highlight the level of coverage from community levels right through to national structures.
- Propose a user friendly child protection framework that includes a clear and phased continuum of care designed to enhance the safety and welfare of children in Zambia.

To address the overall purpose of this mapping process the consulting team utilized a number of assessment approaches to solicit information. This included focus group discussions, questionnaires and interviews with key informants. In all the research team conducted 92 interviews with staff and community members from government structures, traditional leadership and civil society organisations. Focus group discussions were also conducted with children, parents, and traditional leaders at the community

level. An extensive literature review of national and international publications was also undertaken.

The research found that Zambia has a strong legislative framework that extends from the constitution through to national policies. Enshrined in these legal and policy documents is a range of human rights provisions that protect children from exploitation and abuse and guarantee access to services such as health and basic education.

Zambia is also a signatory country to a number of international conventions and treaties that guarantee the rights of children in conflict with law, protect children from exploitative labour and ensure their development. These treaties include but are not limited to the United Nations Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child. Domestication of these treaties within the Zambian legal framework continues.

The existing child protection system encompasses a range of prevention and response mechanisms that include economic inputs for at risk families, outreach activities, sensitization on range of social issues and where needed a residential care program. Administration of these services is somewhat haphazard and where present is implemented by a number of Government Ministries, Departments and Quasi Government Institutions in partnership with Civil Society Organisations.

Civil society organizations and community structures including traditional leadership provide a range of services. These including safe houses, supplementary feeding, and community based training and education activities on social issues including HIV and domestic violence.

Utilizing the data generated during the assessment as well as the findings from the literature review it is clear that despite political and policy commitments Zambia continues to have a number of child protection concerns. Most notably, child labour remains a growing problem affecting nearly half of all children in the country. Active participation of children in decision making is limited and the role of customary law in

addressing child protection issues is not always in-line with national and international legal provisions. Other child protection concerns currently being faced by children in Zambia include risk of forced or early marriage, teen pregnancy, homelessness, insufficient birth registration, risk of being trafficked, exploited or abused, risk of contracting HIV and prospect of losing one or both primary caregivers. Children in conflict with law face many problems in the current application of juvenile justice provisions.

Overall there are a number of challenges to Zambia having a comprehensive and effective child protection system, including:

- Discrepancies in legislation which do not act in the best interest of the child and at times discriminate against a child
- Lack of financial, technical and staffing capacities to address
- Lack of accurate data on child protection concerns
- Lack of information management systems which accurately track vulnerable children be it in the social welfare or juvenile justice arena
- Application of policy provisions are haphazardly implemented with many services open to corruption
- Registration, monitoring and follow up of service providers (including with correctional facilities) is needed to ensure children are not being exploited or abused or unnecessarily detained.
- Poor understanding at the community level of existing protective structures and services.
- Lack of available and up-to-date research on key child protection concerns.

To address these shortfalls in the child protection system the consulting team recommends the following:

- Systematic legislative and policy review to ensure that both statutory and customary law provisions and policies are in line with nationally and internationally agreed standards

- Greater budget allocation to social welfare programming to ensure that programs are fully operational and staff are adequately trained and present at the community level.
- Creation of a centralized data base of information on child protection concerns for use by civil society and government staff to plan and develop appropriate child protection programs based on actual need.
- Institutionalization of a record keeping and information sharing system that accurately tracks children and families in crisis. This record keeping system should ensure accurate and update case files are kept of vulnerable children including those in conflict with law or in alternative care arrangements.
- Greater regulation, monitoring and follow up is needed to ensure services being provided by statutory authorities and civil society organizations conform with domestic and international standards. This should apply to correctional institutions as well as residential facilities.
- Greater tracking is needed of children in informal alternative care arrangements including kinship care.
- Greater coordination of statutory authorities and civil society organizations at community, district, provincial and national levels to ensure all mandated players are providing the required services.
- Greater participation is needed from statutory authorities, the community and children themselves in addressing child protection concerns.
- Research is needed to fully understand pressing child protection concerns including teen pregnancy, child marriage, children with disabilities and the institutionalization of children
- Follow up research is needed to review the budgetary allocations by the new Zambian government for children.

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CHAPTER 1: Introduction

In 2011 the Government of the Republic of Zambia with support from UNICEF and the Children in Need Network conducted a comprehensive review of the child protection system in Zambia. This research focused on unearthing issues of concern for children as well as the prevention and response mechanisms. Strengths and weaknesses in the system were reviewed along with the legal provisions governing the protection of children. The research evaluated the roles of civil society, statutory authorities and the community in providing a comprehensive protective environment for children. The data and information generated from the field research and literature review was utilized to generate this report.

This report is divided into a number of chapters that provide the background information as well as the research findings. Chapter two of the report provides readers with background information and a brief situation analysis. Chapter three outlines the research approach while chapter four provides the reader with key definitions on the child protection system and continuum of care. Chapter five outlines the key child protection concerns for children in Zambia and highlights the most pressing issues. Chapters six and seven discuss the strengths and weaknesses in the existing system specifically related to the legal and policy framework, the role of civil society and the community and the challenges in coordination. Chapter eight discusses the existing promotion and prevention strategies and the role of both civil society and the statutory authorities in preventing child protection issues. Response mechanisms to address child protection concerns are discussed in chapter nine of the report along with the gaps and challenges being faced currently to comprehensive service delivery.

The final three chapters of the report provide information on the available data for decision makers, as well as the priority gaps and recommendations for moving forward. Within the recommendations' chapter of this report the consulting team has endeavoured to separate the recommendations related to the Zambian government from those applicable to civil society organization and donor groups. Recommendations have also been provided to specific ministerial players. Lastly, the research generated a number of recommendations specific to child protection concerns. These have been included to help policy planners and service providers to plan and allocate resources to both prevention and response mechanisms.

CHAPTER 2: Situation Analysis

Zambia is a landlocked country in Southern Africa, to the east of Angola with a total land mass of 752,618 square kilometres of which 9220 square kilometres are water. The country is bordered by Angola, the Democratic Republic of Congo, Malawi, Mozambique, Namibia, Tanzania, Botswana and Zimbabwe. The country is divided into ten provinces with the administration structure headed by a Provincial Minister appointed by the President and ratified by the Parliament. There are 73 local authorities headed by an elected councillor; a District Chairperson for rural councils, and a City Mayor for urban and peri-urban councils. The central government at district level is headed by the District Commissioner.

The population of Zambia is composed of approximately 72 ethnic groups with 90% of Zambian languages being spoken by seven main ethno-linguistic groups namely the Nyanja, Bemba, Tonga, Luvale, Lunda, Kaonde and Lozi.

In the 2010 Census on Population and Housing the population of Zambia has increased to over 13,046,508 people with an annual population growth rate of 2.8%. Regionally the greatest population growth rate is in Lusaka Province (4.7%) and the Northern Province (3.4%). UNICEF in 2009 estimated that there were 6,851,000 children under the age 18 living in Zambia. The population under five years is estimated at 2.327 million. Nationally there are 2,635,590 households of which 61% live in rural areas. Life expectancy at birth is 50.3 years.¹

The World Bank and Human Development Index classification of Zambia is low with 64% of the population living on less than US\$1.25 per day. The Central Statistics Office of Zambia’s monthly flyer (October 2011) states 60.5% of Zambians are presently considered poor (77.9% of rural Zambians are poor). Within the Livings Conditions Survey utilized by the Central Statistics Office there is an overall reduction in poverty across Zambia with the exception of Luapula Province which saw an increase in the number of people experiencing poverty from 73.9% in 2000 to 80.5% in 2011.

The situation of children in Zambia is complex with a number of child protection concerns. Approximately 41%² of children aged 7 to 14 years are economically active and contributing to the income of their immediate and/or extended family. There is an estimated 1.3 million orphans in Zambia of which 690,000 have been orphaned as a result of HIV & AIDS. Twenty percent of all children below 18 years of age are not living with either biological parent and 15% of all children have lost one or both caregivers. Thirty six percent of all Zambian households are hosting orphan or foster children and only 16% of hosting households received assistance in the past twelve months to cope with the added burden of raising additional children.

Teen pregnancy is common with 34% of women currently aged 20 - 24 years having given birth before 18 years. Forty two percent of women are married before the age of 18 and gender based violence is experienced in some form by 47% of all women in Zambia over the age of 15 years. Use of a male condom for women aged 15 to 49 years as a form of family planning is only 5%. HIV prevalence rates are 14.3% nationally. However, women in urban settings are the most impacted, with over 23% of urban based women infected.

Forty-five percent of children in Zambia are stunted with 15% of children being underweight. In the two weeks leading up to the 2007 Demographic Health Survey 16% of children had diarrhoea, 18% had fevers and 5% of children under five showed symptoms of acute repertory infection. ³

While substantial inroads have been made Zambia is unlikely to meet all its Millennium Development Goals’ (MDGs) obligations related to eradicating extreme poverty (MDG1), promotion of gender equity & empowerment of girls (MDG3), reducing child mortality (MDG4), improved maternal health (MDG5), combating HIV&AIDS, malaria and other diseases (MDG6), and ensuring environmental sustainability (MDG7). Regarding MDG 2 (education) Zambia is in line to meet its target obligations although issues of adult

literacy and quality of education remain. Table 1: MDG Progress Update for Zambia (2011) outlines the current status of Zambia in relation to its Millennium Development Goal targets.

As such Zambia’s demographic situation is characterized by three dominant features: high population growth, massive urbanization and substantial variations in the health, welfare and access to services for the general population. The situation of children within Zambia remains complex with issues of concern on child labour, juvenile justice, early marriage, and teen pregnancy, exposure to violence, limited birth registration and inconsistent access to basic services.

Table 1: MDG Progress Update for Zambia (2011)

Goal	Indicator	Latest Figure	2015 Target	Will Target be reached based on present trend?
MDG 1: Eradicate extreme poverty and hunger	% of population in extreme poverty	51%	29%	NO, unlikely without significant reforms and investment
	Poverty gap ratio (%)	34%	31.1%	YES
	Prevalence of underweight children under-5 (%)	14.6%	12.5%	Possible- acceleration required
MDG 2: Achieve Universal Primary Education	Primary school net enrolment rate (%)	102*	100	YES
	Pupils reaching grade 7 (%)	91.7	100	Possible- acceleration required
	Literacy rates: 15-24 year olds (%)	70	100	Possible- acceleration required
MDG 3: Promote gender equity	Ratio of girls to boys in primary education	0.96	1	YES
	Ratio of girls to boys in secondary education	0.88	1	Possible- acceleration required
	Ratio of girls to boys in tertiary education	0.74	1	Possible- acceleration required
	Ratio of literate women to men 15-24 years	0.8	1	Possible- acceleration required
	Proportion of seats held by women in parliament (%)	14	30	NO, unlikely without significant reforms and investment
MDG 4: Reduce Child Mortality	Under-5 mortality rate (deaths per 1000 live births)	119	63.6	Possible- acceleration required
	Infant mortality rate (deaths per 1000 live births)	70	35.7	Possible- acceleration required
	One year olds immunized against measles (%)	84.9	100	Possible- acceleration required
MDG 5: Improve Maternal Health	Maternal mortality ratio per 100,000 live births	591.2	162.3	NO, unlikely without significant reforms and investment
MDG 6: Combat HIV/ AIDS, Malaria and other major diseases	HIV prevalence rate (%)	14.3	<15.6	YES
	Ratio of school attendance of orphans to non-orphans aged 10-24 years (%)	97	100	YES
	Proportion of population with advanced HIV infection with access to ARVs	79	80	YES
	New malaria cases per 1000 population	252	<255	Possible- acceleration required
	Malaria fatality rate per 1000 population	39	11	Possible- acceleration required
MDG 7: Ensure environmental sustainability	Proportion of population without access to an improved drinking water source (%)	40	25.5	Possible- acceleration required
	Proportion of population without access to improved sanitation facilities (%)	36.1	13	NO, unlikely without significant reforms and investment

Adapted from: 2011 Zambia Progress Report on MDGs



CHAPTER 3:

Methodology of the Mapping Assessment

During 2011 the consulting team undertook a comprehensive and systematic mapping exercise of both the statutory⁴ and non-statutory⁵ child protection systems within Zambia. The process was guided by the desire of the Government of the Republic of Zambia to have comprehensive and up-to-date information on the existing statutory and non-statutory systems that address vulnerable children in Zambia. The assessment process was therefore designed to:

- Highlight ongoing child protection concerns for children in Zambia
- Map the statutory institutions and structures responsible for child protection in Zambia
- Map the legal and policy framework focused on judicial and social procedures related to investigations, prosecutions and detentions. As part of this process of the assessment the consulting team reviewed customary laws and practices that had a direct bearing on children in Zambia.
- Analyze the children protection systems in terms of assessment, referrals, registration, coordination, information and monitoring processes. This analysis would identify clear roles and responsibilities and highlight the level of coverage from community levels right through to national structures.
- Propose a user friendly child protection framework that includes a clear and phased continuum of care designed to enhance the safety and welfare of children in Zambia.

To address the overall purpose of this mapping process the consulting team utilized a number of assessment approaches to illicit information on the child protection system in Zambia including shortfalls and deficiencies. This included focus group discussions, questionnaires and interviews with key informants as well as an extensive literature review.

The target groups for the study were Government Ministries at the national, provincial and district levels charged with a child welfare mandate.

Additionally, the study targeted national and international Non- Government Organizations (NGOs), Faith Based Organizations (FBOs), and Community Based Organizations (CBOs) focused on child protection issues. Children, parents, community leaders, elders, religious groups and teachers were also included in the assessment.

In consultation with the Ministry of Gender and Child Development, other Government line Ministries and Children in Need Network, the consultant identified a range of stakeholders to interview. A random selection of community representatives and elders were selected from the targeted districts. The sample districts selected for this survey were Lusaka, Luangwa, Ndola, Lufwanyama, Chipata, Lundazi, Mongu, Senanga, Mansa, Solwezi, Mwinilunga, Kabwe, Nchelenge, Mumbwa, Kama, Chinsali, Livingstone, and Gwembe. In each of these districts sampled stakeholders were drawn from appropriate Government Ministries, CBOs, FBOs or NGOs addressing child issues.

In all 92 questionnaires were conducted with Government Ministries, CBOs, FBOs and NGOs. Focus groups were conducted with children, parents, and community members. In Table 2 a summary of the questionnaires and an overview of the respondents targeted are provided. The questionnaires utilized and the literature reviewed can be found in the annex section of this report.

Table 2: Summary of Questionnaires

Questionnaire Number	Focus	Number Prepared	Number Completed	Interviewees Summary
2	Child Labour & Child Work	2	1	M of Labour- Mongu
3	Children & Justice	15	15	Judiciary- Lusaka Social Welfare- Livingstone, Lundazi, Mansa, Mongu Legal Aid
4	Sexual & Psychological Abuse of Children & Severe Neglect	25	25	Asaza- Kabwe, Chipata HRC- Mongu, Chipata M of Social Welfare M of Education World Vision VSU- Kabwe Social Welfare- Senanga & Lundazi YWCA- Mongu CPU- Mongu MYSCD- Chipata
5	Child Discrimination: Policy Context	9	9	Social Welfare-Mongu Judiciary LAZ
7	Availability of Protective Environment for children	29	29	Kasama YMCA- Livingstone Shimbizmi-Mumbwa LAZ PLAN FDI- traditional leaders Mphamba Village Head Day Care Centre Basic School Shimbizhi CPU Chipata Focus Groups-adults and kids
9	Children without adequate family care or alternative care	1	1	SOS Livingstone
12	Birth Registration	12	12	National Registration-Mongu, Lundazi, District Council- Gwembe, Kabwe, Mansa, Ndola Department of Registration- Lusaka

Limitation of the study. It should be noted that there were limitations in the application of the tools at field level. These limitations included: inconsistent administration of the questionnaires and focal groups including numbers undertaken; incomplete data records on details of focus groups including participants and responses; and incomplete questionnaires. This was in part a result of limited training for the field researchers and different skill levels of the various teams conducting field work. Due to these limitations some information was missing or incomplete affecting analysis across issues. Therefore, there may be some child protection issues that are of importance for Zambia but which have not been included in this report due to lack of consistent and complete data. This report highlights those issues for which data was available and where ever possible this data was triangulate.





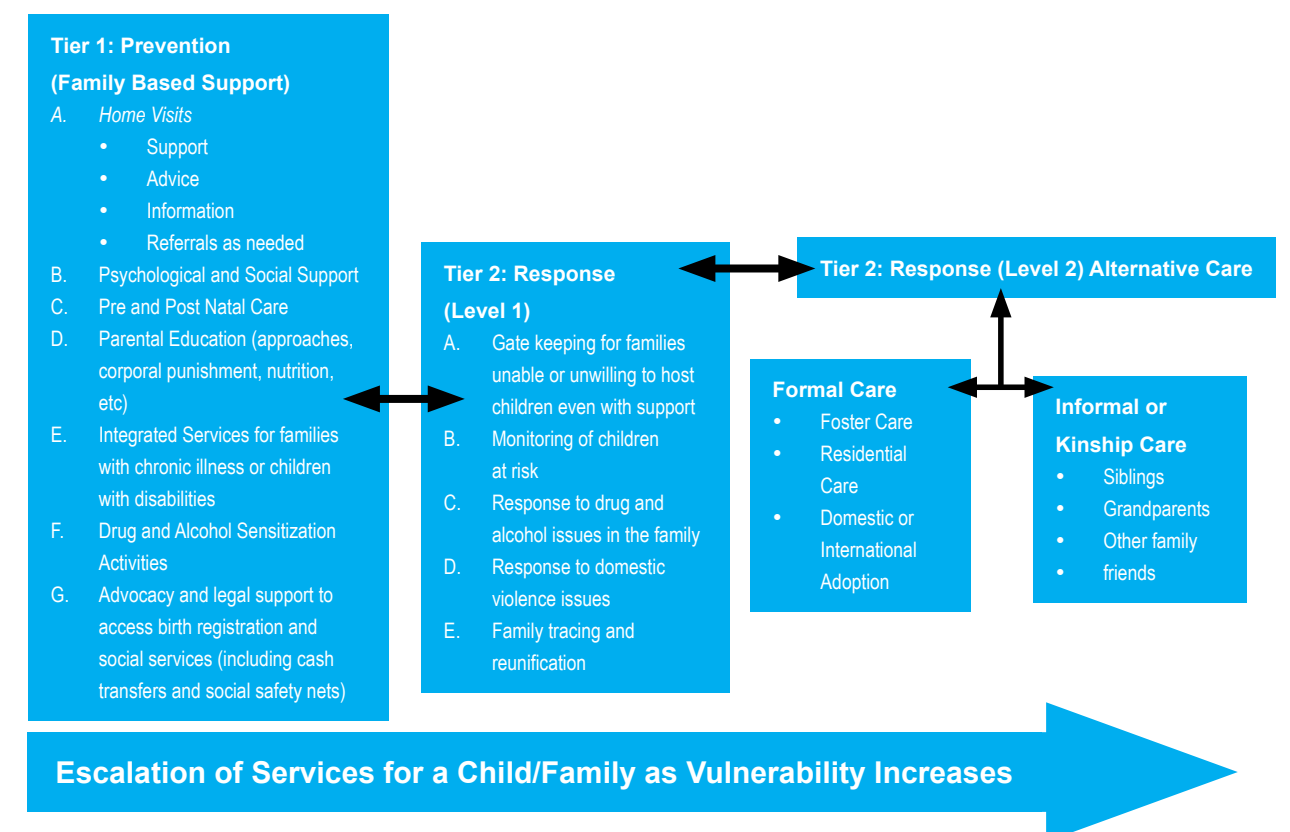
CHAPTER 4:

Definition of a Child Protection System

Child protection is used to describe a set of measures through which families, communities, structures, institutions and society at large can prevent and/or respond to abuse, exploitation or neglect of the community's children. A comprehensive child protection system also includes measures to address families that are vulnerable or in crisis. The legal and normative framework forms an integral part of any child protection system and includes policies, laws (including customary law), regulations, and services needed across all sectors to support prevention and response mechanism. Professional standards, agency mandates and monitoring processes are also included in the legal and normative framework of a child protection system. Integral to any child protection system is the concept

of a **continuum of care**. A child protection continuum of care involves an integrated system that guides and tracks children over time through a comprehensive array of services spanning all level of need. A continuum of care has two specific dimensions. Firstly, it runs for a long period of time, includes preventative actions and is designed to connect care and support activities. Secondly, it places a strong emphasis on linking or coordinating the places of care at various levels including community, district and national levels. In diagram 1 an example of a child protection continuum of care is illustrated. Note the relationship between household, community and government and the importance of having a program that includes an escalation of services once a response mechanism is needed.

Diagram 1: Child Protection Continuum of Care





CHAPTER 5:

Child Protection Issues in Zambia

Introduction. Utilizing the data generated during the assessment as well as the findings from the literature review it is clear that Zambia continues to have a number of child protection concerns. Most notably, child labour remains a growing problem affecting nearly half of all children in the country. Other child protection issues in Zambia include juvenile justice, child marriage and other harmful traditional practices, homelessness, lack of birth registration, trafficking, exploitation and abuse, gender based violence, HIV and orphan hood. Issues of alternative care are also included within this section of the report.

CHILDREN IN THE JUSTICE SYSTEM.

The country's approach to child justice is contained in several legislative provisions (the Juvenile Act and the Penal Code⁶) which do not make explicit reference to the UNCRC.⁷ Existing provisions within the national legislation cover the minimum age of legal consent⁸ as well as the process of handing children in conflict with the law, specifically the processing of cases and the right of a child to legal representation.⁹ Access to services is not discriminatory and includes translation services for children who do not speak the language of the court including children illegally in the country.

There are currently no special provisions which regulate the procedure of arresting a juvenile. Under section 33.1 of the Criminal Procedure Code (CPC) juveniles are required to be brought before a magistrate within 24 hours of being arrested. They can then be remanded for up to 21 days before being required to make a new appearance before the court. Section 62(1) of the Juvenile Act provides for separation of juveniles detained in custody while awaiting trial; however implementation of this provision is poor. Arbitrary arrests are common in Zambia with the Zambian Civic Education Association documenting a large number of arrests of juveniles on flimsy charges or for petty offences.¹⁰

Juvenile criminal offences are handled by subordinate magistrates courts with closed proceedings in which only professional representatives such as social workers and immediate family are present. The role of the Social Worker in Juvenile court proceedings is to provide Social Inquiry Reports (SIR) which can assist the bench to make a determination in the case. There is no legal counsel present as is the practice in cases involving adult defendants.¹¹ The rationale for this approach is that court cases involving juveniles should not be adversarial and that the emphasis should be on finding a course of action in which the best interest of a child is served.

Incarceration is used as a last resort with only one reformatory and two schools being mandated with accepting children during remand and/or incarceration. Efforts have been made by the court to adopt the Best Interest of the Child principle and to introduce a diversion system which includes counselling for troubled children. In line with the Beijing rules¹² a pilot scheme presently covering 9 of 10 provincial centres is underway to introduce a Child Friendly Juvenile Court System. This pilot program covers arrest, reception, detention and the remand process.

Within the Juvenile Act (Sections 72 & 73) magistrates have a range of sentencing options¹³ for young offenders found with a case to answer. This includes:

- Issuing of a probation order
- Sending offender to an approved school
- Ordering the parents or guardians to pay a fine or cover damages or costs
- Ordering parents or guardians to give security to the child offender
- Sentencing a child under the President's pleasure to a suitable place of detention. Official facilities allocated for this provision include: Katombola Reformatory for Boys (Livingstone), Nakambala Approved School for Boys (Mazabuka) and Nsakwe Probation Hostel for Girls (Ndola).

Clear provisions in the Juvenile Act also cover the remand and detention of children. The act stipulates that no child under the age of sixteen may be detained or sentenced to incarceration in a detention facility. The provision also stipulates that for children aged 16 to 19 years incarceration should be an option of last resort and other remedial actions should first be explored. Use of the reformatory system should only be considered as a last option if a child is at risk of committing further crimes.

Inpite of the clear legal provisions on sentencing and detention the assessment proess revealed an ongoing pattern of children being remanded and/ or incarcerated, several below the age of 16 years in reformatory facilities as well as adult prisons or remand centres.

In the 2011 Country Report on Human Rights Practices, it is estimated that juveniles account for up to 10% (1530) of the prison population in Zambia. Even at full capacity official juvenile facilities can only account for a small percentage of the incarcerated juveniles.

In a 2009 tour of Correctional Facilities by Save the Children and the Human Rights Commission 165 juveniles aged 8 to 19 years were being held in the three official juvenile holding facilities (see table 3).

Table 3: Official Juvenile Facilities in Zambia

Facility Name	Age of Facility	Capacity	Actual Population
Katombora Reformatory School (Livingstone) (males)	1957	120	126
Nakambala Approved School (Mazabuka)	1963	75	34 (aged between 9 and 18 years)
Insakwa Probation Hostel for Girls (Ndola)	2006	48	5

Source: Save the Children & Human Rights Commission (2009) "Children's Correctional Facilities Tour Report"

The 2010 Open Society Initiative for Southern Africa- Pre-trial Detention in Zambia documented 89 children being remanded at 7 prison or remand centres in the country. ¹⁴ These included Lusaka Central Prison with 34 children and Ndola Prison which detained 14 children. There were a total of 12 children remanded to police stations/posts in Livingstone, Mansa, Nakonde and Chipata.

Text Box 1 illustrates the number of children being held in adult prisons and police posts in Northern Province. Most of these facilities lack separate holding facilities for juveniles. Cells were found to be unsanitary with limited water supply, bedding or food. Arrested children were routinely subject to physical and verbal abuse¹⁵ by police or prison officials and were not routinely allowed to contact family or the Social Welfare Department for support.¹⁶ Children were also not being routinely presented to a magistrate within 24 hours of arrest and were being held beyond their 21 day¹⁷ incarceration order.¹⁸

In spite of these substantial legislative provisions and the introduction of the child friendly courts the current system continues to face substantial operational and staffing challenges. There remains a problem with tracking cases involving with children as there is no central record keeping or data collection system. It is not uncommon therefore for children to be lost in the system as can be evidenced in the countless number of children remaining indefinitely in remand in adult prisons. Additionally, there remains a shortage of trained personnel, inadequate resourcing to process cases, systematic breakdown in ensuring appropriate representation by the social welfare department and gross abuses in the arresting process by police officials. Monitoring, oversight and accountability structures seem non-existent with remand and convicted children having little recourse for lodging complains or raising concerns.

Text Box 1: Children incarcerated in Prisons in Northern Province (2009)

Name of Adult Prison	# of Male Children		# of Female Children		# of Children of Incarcerated Mothers	Total # of Children
	Convicted	Remand	Convicted	Remand		
Milima State Prison	28	0	0	1	5	34
Mpika District Prison	9	4	0	0	2	15
Isoka District Prison	0	1	0	0	2	3
Mbala State Prison	1	0	0	0	0	1

*NB: children at Mpika District Prison and Mbala Prison were held in same cells as adult prisoner.

Children held in Police Stations & Posts in Northern Province (2009)

Name of Police Post or Station	# of Children	Holding Area Conditions
Kasama Police Station	3	<ul style="list-style-type: none">Held in a corridor with poor lightingNo toilet facilities, bedding or blankets
Mungwi Police Station	3 (aged 12-15)	<ul style="list-style-type: none">In need of medical treatment following abuseParents not informed of whereabouts of childrenNo separate holding cells for juveniles- held with adults in unclean cells
Mbala Police Station	6	<ul style="list-style-type: none">Children held in cell with remand adult malesCells lacked water, sanitation, bedding etc
Mpulungu Police Station	3	<ul style="list-style-type: none">Being held for druckednessNo separate holding cell so being held with adultsLacked water and sanitation, poor ventilation, bedding etc

Source: Save the Children and Human Rights Commission (2009) "The Welfare of Children in Prisons, Other Detention Centers and Orphanages",

CHILD LABOUR & HOMELESSNESS.

Zambia is signatory to a number of international conventions covering child participation in the economic market including the UNCRC and the ILO Conventions (138 & 182) on minimum age and worst forms of labour.

Domestically, the Zambian constitution protects children from slavery while the Employment of Young Persons and Children Act (EYPCA) regulate the conditions of employment for children. As of the 2004 amendments to the EYPCA employment of children below 15 years is prohibited.¹⁹

The Fifth and Sixth National Development Plans along with the Revised 2006 National Child Policy both propose measures aimed at stopping the economic exploitation of children in Zambia. These provisions put education as the primary strategy in preventing children prematurely entering the labour market.

Text box 2: Number of Children (Aged 5-17 years) exposed to Hazardous Work.

Hazard	# of Children
Noisy Environment	510,665
Dust, fumes & gas	451,589
Dangerous tools	204,106
Carry heavy loads	177,400
Work in extreme temperatures	111,673
Exposure to chemicals	6947
Work at heights	1611
Work underground	834
Work with insufficient light	585
TOTAL	1,465,410

Source: ILO Report, Understanding Child Labor (2009)

The 2010 National Action Plan for the Elimination of the Worst Forms of Child Labour outlines a coordinated approach which emphasizes enforcement of existing laws and policies, strengthening institutional and technical capacities, raising awareness on issues, establishment of a monitoring and evaluation system, and enhancing prevention, withdrawal and social reintegration systems.

Despite the range of legislative protections the number and conditions under which children work remains an issue of concern. In the 2011 report “Towards Ending Child Labour in Zambia: An Assessment of Resource Requirements” it is estimated that one in three children aged 7 to 14 years (950,000 children) work in employment. About 28% of all children under the age of 13 undertake work in spite of the clear legislative provisions. Most working children are also attending school (81%) although work commitments have a direct impact on grade progression, completion and attendance rates. The vast majority of children aged 7-14 years are employed in agriculture activities (95%).²⁰

There are clear geographical implications to child labour with the Northern (79% children work) and Eastern Provinces (77%) hosting the most child workers. In the Copperbelt and Lusaka Provinces less than one in ten children are economically active.

Using the Zambian legislative provisions it is estimated that 1.3 million or 41% of children aged 5 to 14 years work. Of these, one million children under the age of 12 work (20% of 5 year olds and 23% of 6 years old work) and 225,000 children aged 13-15 years undertake work that is not light and that does interfere with their schooling. It should be noted that children involved in the worst forms of child labour are not included in these statistics.

It is estimated that of the children involved in the worst forms of child labour almost 7000 children are exposed to chemicals, 1600+ work at dangerous heights with no safety equipment and 800+ children work underground. Over 1000²¹ children under the age of nine walk away from home without access to school or adequate care and protection. While there is no great disparity in gender and employment, the risk of child labour increases with age. Economic shocks

felt by a family directly impact the likelihood of a child participating employment activities.²²

Text Box 3: Profile of a Child Worker in Zambia

Emily* is aged 10 and comes from a rural community in Easter Zambia. She has been working since the age of 7 in the agricultural sector. On average she spends more than 31 hours per week working before household chores or school activities. She attends school intermittently and as a result has had an inconsistent grade progression. It is anticipated her intermittent school attendance will cease around the age of 11 or 12 as she takes up more work duties. As she reaches puberty she may be at risk of violence or possibly sexual assault. Will Emily has been a good student, the economic needs of her family have meant her priority activities needs to shift away from school to income generation especially during the periods of economic deprivation.

Source: CP Mapping Assessment 2011 (Emily is not an actual person. Profile composed from a variety of sources and informants).

In the 2008 Zambian Situation Analysis of Children and Women interviewed respondents discussed the impact of removing children from all economic generating activities. Seventeen percent of respondents felt it would reduce their standard of living, while 16% felt it would threaten the survival of their family. Twenty percent of respondents felt removing children from the labour market would make household enterprises inoperable.

Figures on homelessness are limited but is estimated that there are 13,500 children²³ on the streets of which 15% are girls.²⁴ Of these 42% are believed to have both parents still alive and 75% of homeless children have at least one surviving parent. Twenty five percent of homeless children have no alternative to living on the street.²⁵

The impact of child labour and homeless on a child includes:

- Compromised attendance at school which impacts progression and grade completion

- Impacts literacy and numeracy skills of a child
- Leaves a child vulnerable to exploitation and abuse
- Impacts cognitive, physical and emotional development

CHILD MARRIAGE AND OTHER HARMFUL TRADITIONAL PRACTICES.

The harmful traditional practices identified during the mapping process included early and forced marriage and cleansing / initiation ceremonies for boys and girls.

The Marriage Act establishes the legal age for marriage at not less than 21 years of age (section 10), but states that if he or she is under that age, consent for the marriage must be obtained, without defining who gives consent. Section 33 of the Marriage Act provides that a marriage between persons either of whom is under the age of sixteen years shall be void. However the provision can be averted where an application is made to a Judge of the High Court, who can consent to the marriage if the particular circumstances of the case are not contrary to the public interest.

Within Zambia 46% of all women are married under the age of 18 years.²⁶ Almost twelve percent²⁷ of girls under the age of 15 are married and 16% of women are impacted by polygamy.²⁸ The Population Council in its 2004 Child Marriage Brief estimates that 68% of married girls have already given birth. Six out of ten married 15 to 19 year olds cannot read, and 68% have not completed schooling. The Population Council found that married girls aged 15-19 years were more likely to be infected by HIV.

Under Customary law, recognition of a marriage requires the payment of *Lobola* (bride price) and failure to do so can lead to a father not recognizing the legitimacy of his children into marriage. Culturally, child marriage is seen as an effective strategy in preventing pre-marital sex among young women.²⁹ Initiation ceremonies occur in both rural and urban setting in Zambia.³⁰

These ceremonies look to prepare both girls and boys for adulthood and are designed to mark the change

from childhood to adulthood after the onset of puberty. The initiation ceremonies themselves are not seen as harmful but concern arises around the duration children spend away from schools as well as the link between the completion of the initiation and the practice of early marriage.

Cleansing ceremonies tend to focus on a cleansing of a disease particularly HIV/AIDS. They often involve an older male suffering with HIV engaging in sexual contact with a girl who is yet to become sexually active. In some communities, there is a belief that “virgin cure” ceremonies will cleanse the infected person of the disease.³¹ No data was found on the prevalence of the cleansing practices but girls involved in the practice are at risk of contracting STI and HIV due to unprotected sexual contact.

Text box 4: Profile of Child Bride in Zambia

- Large spousal age gap
- Limited social support and restricted social mobility
- Limited educational attainment
- Intense pressure to become pregnant
- Increased risk of infant and maternal mortality
- Increased vulnerability to HIV and STIs
- Lack of skills to be viable to labor market

Source: UNFPA 2005

BIRTH REGISTRATION.

Birth registration in Zambia is limited with only 14% of births currently being registered. Within rural areas only 9% of births are registered while 28% of births are registered in urban settings.³² In spite of registration being compulsory dialogue is needed to promote the active registration of all births in both rural and urban settings.

During the Child Protection mapping assessment lack of clarity on the legal requirement of birth registration arose. Currently, programs exist to register older children. However, the process is seen as unclear and costly for economically vulnerable families. Where births are registered by community leaders, central reporting does not always occur. Direct costs

associated with birth registration include a registration fee, certificate fee and affidavit for older children wishing to register their births. Additional indirect costs include loss of income and transportation costs associated with travel to the registration office closest to the location of the birth.³³

- The impact on Zambia not fully implementing a birth registration system includes:
- Inaccurate enrolment of children in schooling and services
 - Limitations on accessing key government services (e.g. under five health program)
 - Difficulty for central and provisional government to budget and plan on community needs
 - Difficult to determine age of child in juvenile justice cases
 - Lack of protection from inheritance loss, exploitation or abuse (age of sexual consent) for children without birth registration documents.

CHILD TRAFFICKING & EXPLOITATION.

Child trafficking and exploitation are serious protection issues in Zambia. Legal protection of a young person from exploitation is below 15 years of age although regulations against trafficking cover any person below the age of 21 years. Provisions exist criminalizing the abduction of girls below the age of 16 years.³⁴

In a 2009 Children’s Conference report, children in seven districts in Southern Province talked of abuse and exploitation issues as being issues of concern for young people in their communities (see text box 5).

Text Box 5: Children’s Voices- Issues of concern from Southern Province

District	Issues
Choma	Child labor, abuse and neglect
Namwala	Abuse, child labor (cattle herding), lack of participation in decision making
Gwembe	Sexual abuse
Kalomo	Abuse, exploitation and expose to drugs and alcohol
Monze	Conditions of adoption
Iteshi Tezhi	Protection
Siavonga	Child labor & physical and sexual abuse

Source: HRC (2009) “Children’s Conference 2009: Dignity, Participation and Development for Every Child”.

Statistics on trafficking and exploitation are limited with most children trafficked internally due to socio-economic and cultural issues. The data suggests that the majority of children being trafficked are girls from economically vulnerable households. Often parents or caregivers are aware and involved in the practice and see the income earning potential as essential to the survival of the family.

According to the geographical position of the country - Zambia is a source, destination and transit country for trafficking with children predominately trafficked for commercial and sexual exploitation and child labour.³⁵

In the 2007 ILO Report on the Nature and Extent of Child Trafficking in Zambia, children are frequently trafficked to provide cheap labour (often for the extended family), to serve in the commercial sex industry or in rare cases trafficked for ritualistic purposes. The specific purpose of trafficking is directly linked to location.

Obtaining statistics on the internal and external trafficking of children is difficult. However, in the 2006 Central Statistics Office study on Child Commercial Sexual Exploitation 2019 cases involving children aged 5 to 17 years were reported in 15 districts across all nine provinces.

- Within the 2004 Country Report on Human rights the United States (US) Department of State reported that interviewed children in the commercial sex trade reported the following:
- 19% of children were required to perform at least three sex acts per day
 - 25% of the interviewed children had been sexually exploited for at least 2 years
 - 25% had contracted a sexually transmitted disease and at least 7% had a confirmed HIV positive status.

ABUSE, GENDER BASED VIOLENCE AND TEEN PREGNANCIES.

Abuse is a large and growing problem for Zambian children. Clear legislative provisions exist protecting children below the age of 16 years from abuse. However, their application is not common for girls over

the age of 13. Strong sentencing provisions in excess of five years are routinely applied in cases involving victims under the age of 12 years.³⁶ Legislative shortcoming exists around the age of the victim and provisions are needed to cover all children irrespective of gender or age.

The legislative framework allows for children to access the justice system by reporting issues of concern to the Victim Support Units or the Child Protection Units of the Zambian Police in the Ministry of Home Affairs. Children can also report concerns to teachers and/or community leaders who can then refer issues directly to the Zambian police. Additionally, a limited number of help lines and one stop centres provided by civil society organisations allow children to file abuse reports.

Between 2007 and 2009 the Zambian Police Service received between 1500 and 2000 cases of child sexual abuse.³⁷ In 2009 the Victim Support Unit of the Zambia Police received 1,679 defilement³⁸ cases of which prosecutions resulted in 277 convictions and 63 acquittals.³⁹ Perpetrators usually were family members, males known to the family or persons in positions of authority.

In reality, rates of abuse or defilement are much higher. However, victims are often reluctant to report abuse due to fear or a sense that a complaint will not be taken seriously. Despite lack of jurisdiction, for many victims the only legal recourse is through local courts utilizing customary law. Courts utilizing customary law cannot sentence a person to imprisonment and as such it is common for victims and family members to receive retribution payments from the perpetrator in-lieu of custodial sentences.⁴⁰ While corporal punishment has been repealed as a punishment in Juvenile cases canning does still occur as a form of discipline in remand and reform facilities and child care centres. Corporal punishment in schools has been prohibited although no specific laws exist covering the use of corporal punishment in the home setting.

Text box 6: Number of Pregnant Girls withdrawing from school by Grade in urban and rural settings.

	Grade	2005	2006	2007
Urban	1-9	1405	1511	1141
	10-12	721	736	866
Rural	1-9	7706	8892	9940
	10-12	609	855	886
	TOTAL	10,441	11,994	12,833

Source: Government of Zambia (2008) “Situation Analysis of Children & Women”.

Gender based violence is a substantial issue in Zambia affecting both women and children. It is of particular concern for child brides. Forty-seven percent of women in Zambia have experienced violence since the age of 15 and one in three have suffered violence in the past 12 months. Women who are divorced, widowed or separated are disproportionate more likely to experience violence than single women. One in ten women experience violence while pregnant and given that 68% of women aged 15-19 have already given birth, a number of women impacted by violence while pregnant in this age cohort is substantial.⁴¹

Culturally, there is a high degree of tolerance towards domestic violence in a home setting with women having limited decision making power.⁴² This can best be illustrated by a number of men and women aged 15-19 years who believe a husband is justified in hitting his wife under certain circumstances. Fifty-five percent of males in this age cohort felt it was appropriate while 61% of young women felt domestic violence was justified in certain circumstances.

There are approximately 12 Child in Crisis/ One Step Centres in Zambia which deal on average with 10-12 child abuse or violence cases per month. The YMCA One Stop Centre in Lusaka receives approximately five child abuse cases per week.⁴³

Currently, in Zambia there are few or no case conferences, at risk register and few court orders pertaining to safety. The police and NGOs for the most part make decisions regarding a child’s placement if the child needs to be removed. There are no court orders that protect a child while a perpetrator is on bail

or if conviction is not given.⁴⁴ Challenges also exist around the ability of medical staff to respond to abuse cases with many children not receiving appropriate or timely medical treatment for their injuries.

Teen pregnancies is a growing issue in Zambia and one of the leading causes of a girl child failing to complete her education. In text box 6 the issue of teen pregnancy and education is clearly illustrated. Note how teen pregnancy is an issue affecting predominately younger women in upper primary grades in rural communities.

On average 16% of girls and 12% boys have had their first sexual experience by the age of 15, in rural communities this appears to occur at least one year earlier for girls. ⁴⁵ The 2007 Demographic Health Survey reports one quarter of all girls aged 15 to 19 year have begun child bearing (6% currently pregnant and 22% have already delivered).

Teen pregnancy is of particular concern not only for its impact on education attainment, but also for the health of both mother and child. The maternal mortality risk in Zambia is significantly higher for young women.

ORPHANS AND CHILDREN IN NEED OF ALTERNATIVE CARE.

Within Zambia there is 1.3 million orphans of which 690,000 are orphaned as a result of HIV /AIDS. There are approximately 120,000 children under the age of 14 have contracted HIV.

It is estimated that 20% of children under the age of 18 not currently living with either biological parent. Fifteen percent of children have one or both their parents deceased and of these 53% are not currently living with their siblings. Thirty-six percent of households in Zambia are hosting orphans or foster children and only 16% of these households received support from the state or civil society organizations in the past 12 months. An estimated 710,000 children or 33% of orphans and 12% of non-orphans are presently being brought up by their grandparents.⁴⁶

With the onset of the HIV and AIDS pandemic many families have been strained by the added care

responsibilities. Grandparents particularly have stepped in to fill the parenting vacuum and providing a full time care of orphaned or abandoned children. These kinship arrangements carry no legal protections for either the child or caregiver and can be terminated at any time.⁴⁷

As of 2006 there were 101 homes providing institutional care to 4592 children (see table 2 below).⁴⁸ In the Child Care and Adoption Societies Annual Report (2006) it is estimated that less than 1% of orphaned children are housed in residential facilities (approximately 13,000 children). Since 2007, Lusaka District has committed only 61 children to formal placements (20 to non-relatives, 10 to relatives, 30 babies to homes in preparation for adoption).⁴⁹ In reality, the number of children in residential care is expected to be much higher as anecdotal evidence exists that there is no accurate register on children in care, and residential homes are not routinely informing state authorities of children in their care.⁵⁰

Table 4: Figures of Children in Institutional Care

Province	Number of Homes	Total Number of Children
Lusaka	41	2702
Southern	19	555
Copperbelt	22	961
Luapula	2	44
North Western	4	149
Eastern	2	101
Northern	2	80
Central	6	499
Western	3	104
TOTAL	101	4,592

Source: MCDSS 9/11/2005

FOSTER CARE.

During 2006, Department of Social Welfare (DSW) in the Ministry of Community Development, Mother and Child Health worked with 31 males and 108 female foster cases. Of these 132 male and 23 female foster orders were granted. Most foster cases were precursors to adoption.⁵¹

To date the practice of state authorities has been to place children under the age of three years in residential facilities rather than foster homes. Concern arises around the quality of care for these children and lack of stimulation they may receive during this key developmental period.

ADOPTION.

In 2006 there were 47 male and 52 female adoption case files submitted. Orders were made for 31 males and 38 females to be adopted.⁵² DSW acted as the guardian in 31 of the cases. In 2007 Child Welfare and Adoption Society (CWAS) received 100 applications for adoption (20 were received from Zambians). According to the US State Department in 2011, 16 adoptions to the United States were completed.⁵³

Domestically, adoption is not a common practice. Many parents fostering or caring for children prefer not to have legal responsibilities formally transferred to them and instead prefer an informal agreement which can be terminated. This coupled with less or no commitment shown by Government to promote the finding of permanent care solution for children, has led to a situation of children often being shuffled between family members following the death or illness of their primary caregivers.

- There are a number of challenges to international adoption in Zambia such as the following:
- Residency requirement;
 - Slow and/or delayed social work and police reports and procedures;
 - Lack of guardianship representation for the child during the court process;
 - Stipulated procedures not always being followed and no legal provision to overturn the lack of consent from relatives or parents;
 - Corruption common with unexplained “fees” being imposed;
 - Zambia is also not a signatory to the Hague Convention on Inter-country Adoptions a requirement of some adopting nations.

Issues in alternative care are extensive and include legal loopholes, poor monitoring, insufficient trained staff, and poor registration of care facilities. Participation by children in alternative care arrangements is minimal with children not consulted in decisions related to their care arrangements. Staff shortfalls are particular acute with only 180 Social Welfare Staff in the Ministry of Community Development, Mother and Child Health employed of which most were administering the Public Welfare Assistance Scheme (PWAS) program. Staff discussed

that only a third of their time could be allocated to juvenile cases while the remaining two thirds of their time were devoted to the administration of the PWAS. No time was available to follow up cases or conduct inspections.⁵⁴

Text box 7: Orphanages in Northern Province

Name	# of Staff	# of Children	Issues
Mpika Village of Hope Orphanage	4 women 1 man	11	<ul style="list-style-type: none">• Small sleeping area with poor ventilation• No transportation• No supplementary support from DSW• Staff lack training
Antonella Transient Home	3 women 1 man	13 (including HIV+ children)	<ul style="list-style-type: none">• Poor funding• Special needs of HIV+ children• Staff lack expertise and need training• Ratio of staff to children poor given the age & special needs of the children
YMCA Transit Centre	4 women (includes two counselors)	8	<ul style="list-style-type: none">• Poor funding• Staff allowances not paid• Lack of space- counseling room being used as a bedroom• Challenges in integrating children back with family• HIV+ children require special needs
Brother's Keeper Ministries Children's Home	3 women	14 (including a HIV+ children)	<ul style="list-style-type: none">• Poor ratio of care givers to children• Care givers lack training and technical expertise to care for the children• No transport• No telephone line
Luse Day Care and Orphanage	3 staff (1 teacher, 1 untrained teacher and a mother who slept overnight with kids)	150 children in day care and 22 boarding	<ul style="list-style-type: none">• Poor ratio of children to adults• Lack of teaching and reading supplies• Limited bedding including mattresses and blankets (2 boys per mattress)• Lack of separate infrastructure for children living at facility• Limited kitchen utensils• No counseling services

Source: Save the Children and Human Rights Commission, “The Welfare of Children in Prisons, Other Detention Centers and Orphanages”, 2009.



CHAPTER 6:

Strengths & Weaknesses of the Child Protection System

Policy and Legal Context. The constitution of the Republic of Zambia recognizes the vulnerability of children and their right to protection and care. A number of legislative provisions related to children have been drafted and cover civil matters and juvenile justice. Civil matters related to children are covered under the Interstate Succession Act, the Widows and Orphaned Persons Act, the Affiliation and Maintenance Act, the Adoption Act and the Employment of Young Persons and Children Act. The Juvenile Act and Penal Code (included the Criminal Procedure Code) are the main legislative instruments that cover children in conflict with the law in Zambia. There is no legal guardianship law that transfers parental responsibility to a relative.

Domestically, implementation of legislative provisions related to children is carried out under the National Plan of Action to Eradicate Child Labour, the National Child Policy and the Criminal Justice Forum.

Implementation of the legislative provisions is carried out by the:

- Ministry of Gender and Child Development;
- Ministry of Community Development, Mother and Child Health;
- Ministry of Home Affairs;
- Ministry of Health;
- Ministry of Education, Science Vocational Training & Early Education;
- Ministry of Local Government, Housing, and Environmental Protection; and the
- Ministry of Justice.

Support on child protection matters is also given by the Victim Support Units and Child Protection Units within the Zambian Police Service.

Zambia has a dual legal system in which the Zambian constitution recognizes the application of both Statutory and Customary Laws. Customary Law is applicable to a range of social issues including

contracts, petty crimes, divorce, reconciliation, domestic violence, land disputes, custody of children, payment of a bride price or Lobola, and persons dying without a will.

Customary Law prevails unless individuals have taken steps to ensure their rights are covered under statutory provisions by marrying in state recognized institutions, or preparing state recognized will documents. As a general rule where Customary Law is seen as applicable, statutory provisions become subordinate.

Text box 8: Challenges between statutory & customary law.

Definition of a child:

there are various definitions of a child within Zambia's legislative framework (including customary law) that range from puberty through to 19 years.

Child Marriage:

under statutory provisions men and women must be over 21 years of age to marry without consent of their parents. Under customary law age of consent can be lowered to coincide with puberty. The payment of a bride price is common to receive customary recognition.

Age of Consent:

The statutory age of sexual consent is 16 years however child marriage under customary law allows for marriage below the statutory age of sexual consent.

The implementation of Customary Law provisions are influenced by the views and beliefs of the current traditional leadership and can vary from region to region. Local Courts at community and district level utilize Customary Law to determine the outcomes of a case and tend to work from a punitive standpoint which can be inconsistent with child rights. Local Courts are usually staffed by community members drawn from a traditional leadership that is unfamiliar with statutory provisions and the rights of children as enshrined in the Constitution and National Legislative Instruments. There are often no uniform education qualifications for Local Court officials; corruption is common and the best interest of the child is not always taken into account.

While Local Courts do not technically have jurisdiction to adjudicate serious offences such as abuse and defilement, weaknesses in the referral system and costs associated with court cases in the statutory system mean that often abuse and defilement cases involving girls are heard in Local Courts. Justice usually involves victims and/or their family receiving compensation in exchange for perpetrators not receiving custodial sentences. In its current application, Customary Law tends to grant significantly few rights to women and minors.

Globally, children are protected by a number of human rights instruments and conventions. The United Nations Convention on the Rights of the Child (UNCRC) is the most significant. It includes a range of provisions that address development, political, economic, social and cultural rights of children. Additionally, the UNCRC has two optional protocols:

- Optional protocol on the involvement of children in armed conflict
- Optional protocol on the sale of children, child prostitution and child pornography.

While these two protocols entered into force in 2002, Zambia as a signatory country has yet to ratify either of the optional protocols.

In addition to the UNCRC, Zambia is state party to a number of regional and international conventions and standards including:

- African Charter on the Rights and Welfare of the Child (ratified 2009)

- UN minimum rules for the administration of Juvenile Justice (Beijing Rules, 1985)
- UN guidelines for the Prevention of Juvenile Justice (Riyadh Guidelines 1990)
- Minimum Standards and Rules for the Treatment of Prisoners (1995)
- UN Rules on Non Custodial Measures (Tokyo Rules 1990)
- Universal Declaration of Human Rights (1950)

These instruments cover a range of issues including basic care and development provisions for children as well as community involvement in criminal justice and provisions for child detention. It is important to note that the Zambian Legal Framework requires that any provisions in international conventions or protocols that the country is signatory to must be first be domesticated into national legislation in order to be enacted. When looking at the UNCRC not all provisions are currently domesticated and therefore the full application of the UNCRC is not occurring.

STRUCTURES, FUNCTIONS AND CAPACITIES.

The child protection system in Zambia is underpinned in a legal framework which encompasses policies and standards. It is not fully in-line with all the provisions outlined in UNCRC and other international conventions Zambia is a signatory to. Currently, there is no clearly defined and comprehensive child protection framework which encompasses policies, roles and responsibilities, obligations, staff capacity, monitoring, services, professional standards or Ministry /agency mandates.

Rather the approach taken designates child protection issues to a range of Ministries. In Table 5: Ministry Roles & Responsibilities, the various roles of the primary and secondary ministries are outlined. Also included are the challenges being faced by these state actors in providing adequate child protection services.

Challenges to delivering effective child protection services include unclear mandates, poor coordination, lack of resources, poorly trained and resourced staff, lack of understanding on legislative provisions and obligations and inadequate data keeping.

Specific Ministries and Agencies (primary, secondary, and priorities)

Within Zambia there are primary and secondary ministries mandated to address issues related to children. These are illustrated in Diagram 1: National Structure.

Under the Child Protection system the primary responsibility for child protection at the national structure falls to:

- Ministry of Gender and Child Development
- Ministry of Community Development, Mother and Child Health
- Ministry of Home Affairs (encompasses Zambia Police Service and National Registration)
- Ministry of Justice

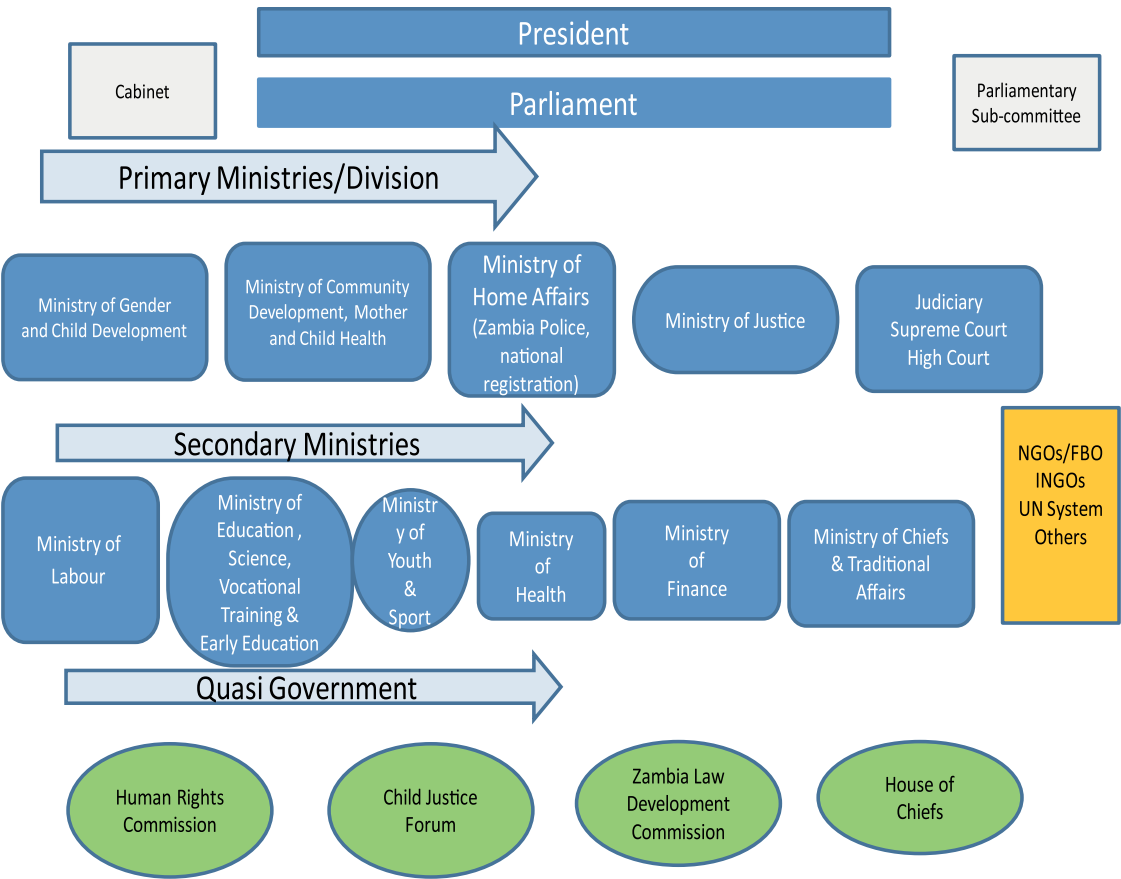
Additionally, the Judiciary including the Supreme and High Courts are primarily mandated to address child protection issues.

Secondary Ministries addressing child protection

- issues include:
- Ministry of Labour (MOL)
 - Ministry of Education, Science, Vocational Training & Early Education
 - Ministry of Youth and Sport (MYS)
 - Ministry of Health (MoH)
 - Ministry of Finance (MoF)
 - Ministry of Chiefs & Traditional Affairs (MCTA)
 - Ministry of Local Government and Housing

Civil society involvement is through Non-Governmental Organizations (NGOs), Community Based Organisations (CBO) Faith Based Organizations (FBOs), the UN system and International Non-Governmental Organizations (INGOs). Additionally, a range of Quasi Government Organizations are included in the child protection system. These are the Human Rights Commission (which among other functions inspects prisons and reformatories), the Child Justice Forum, the Zambian Law Development Commission and the House of Chiefs.

Diagram 1: Zambia Child Protection System - National Structure



Sub-National Structure

The sub-national structure related to the Zambian Child Protection system can be divided into three levels. In diagram 2: Sub national structure the actors involved in each level are outlined.

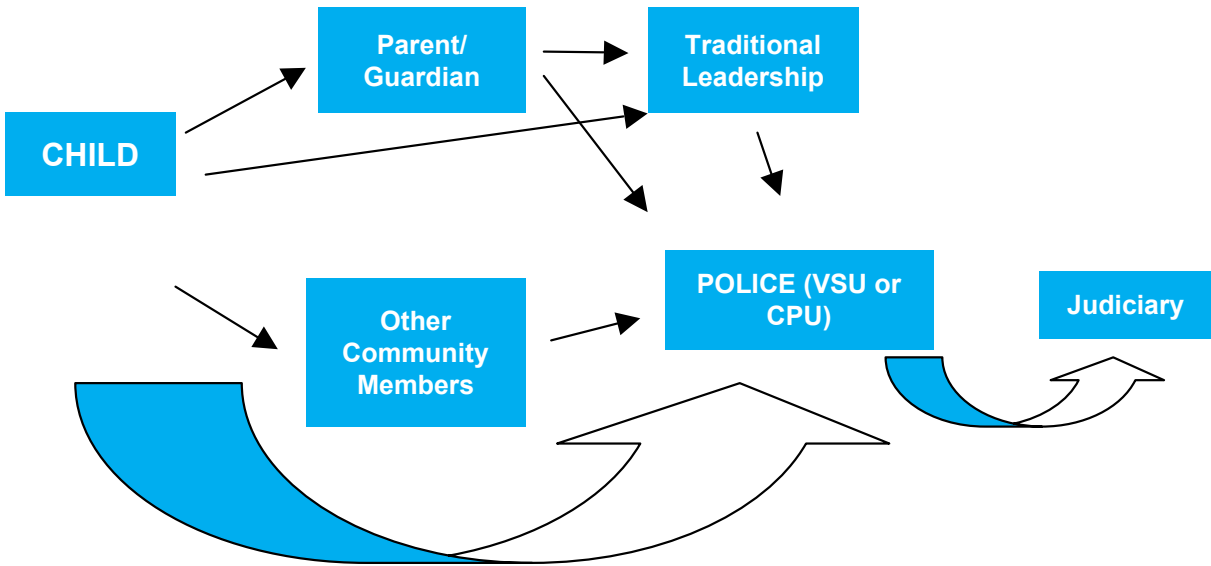
At the community level; Village Councils, Community Welfare Committees, and schools work alongside a village head and where present Neighbourhood Watch Associations to prevent and address child protection issues. At the district level; District Ministerial Representatives as well as the District Welfare Committees and Courts (Magistrate and Local) work alongside Child Justice Forum to address issues of concern. Provincially; Ministerial Representatives along with Justice Representatives from the Magistrate Courts and Child Justice Forum

and Human Rights Commission address child protection issues. Partnering with these Government and Quasi Government Institutions are Civil Society representatives as well as the Chiefs and members of the traditional courts.

Not included in the diagram but essential to the partnership is the household which includes biological parents as well as formal and informal caregivers.

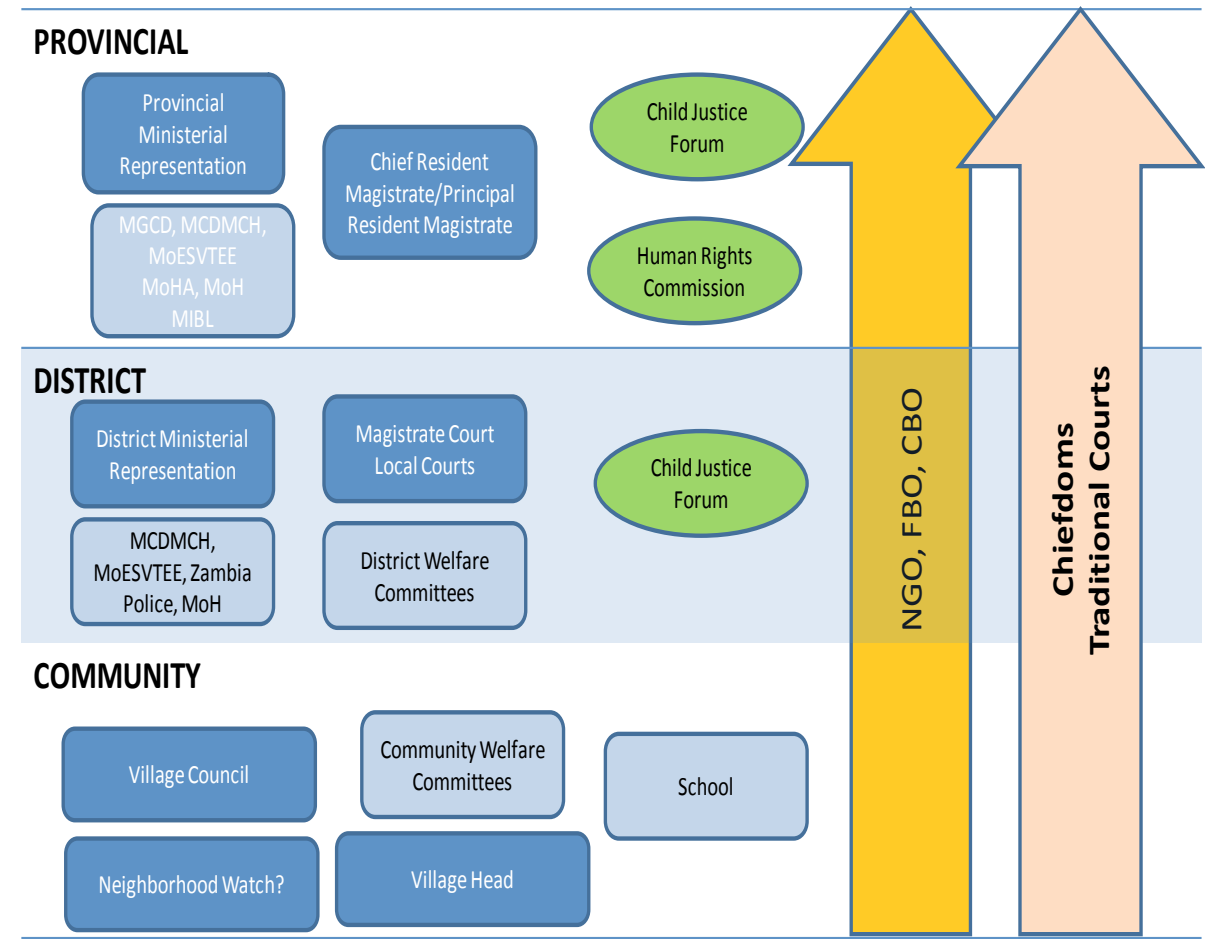
It is within this sub-national structure that children are able to report issues of concern including abuse or violence to adults such as parents, teachers or community leaders. Children are also able to report directly to the police who can then refer cases onto the judiciary (see text box 9). Problems arise when issues are not referred onto the police but only addressed to traditional leadership for review.

Text box 9:
Existing Mechanisms for Children to Report Child Protection Concerns



Source: Child Protection Mapping Assessment questionnaire 3 results

Diagram 2: Zambia Child Protection System - Sub-national Structure



Community Structure

The Child Protection Mapping Assessment has identified many layers of community level structures that provide protection to children in Zambia. These include the immediate and extended family, the village leadership as well as formal and informal community associations. These protective layers are integral to both the prevention of harm to a child and the response to a child in crisis (see diagram 3).

At the community level, a family through the provision of emotional and physical support including food and shelter provides the most comprehensive layer of protection for a child. This includes the extended family who in the case of death, abandonment or illness takes on the full responsibility of raising a relative's child. The extended family also plays a role in mitigating shocks to a family by providing financial and material support during periods of deprivation.

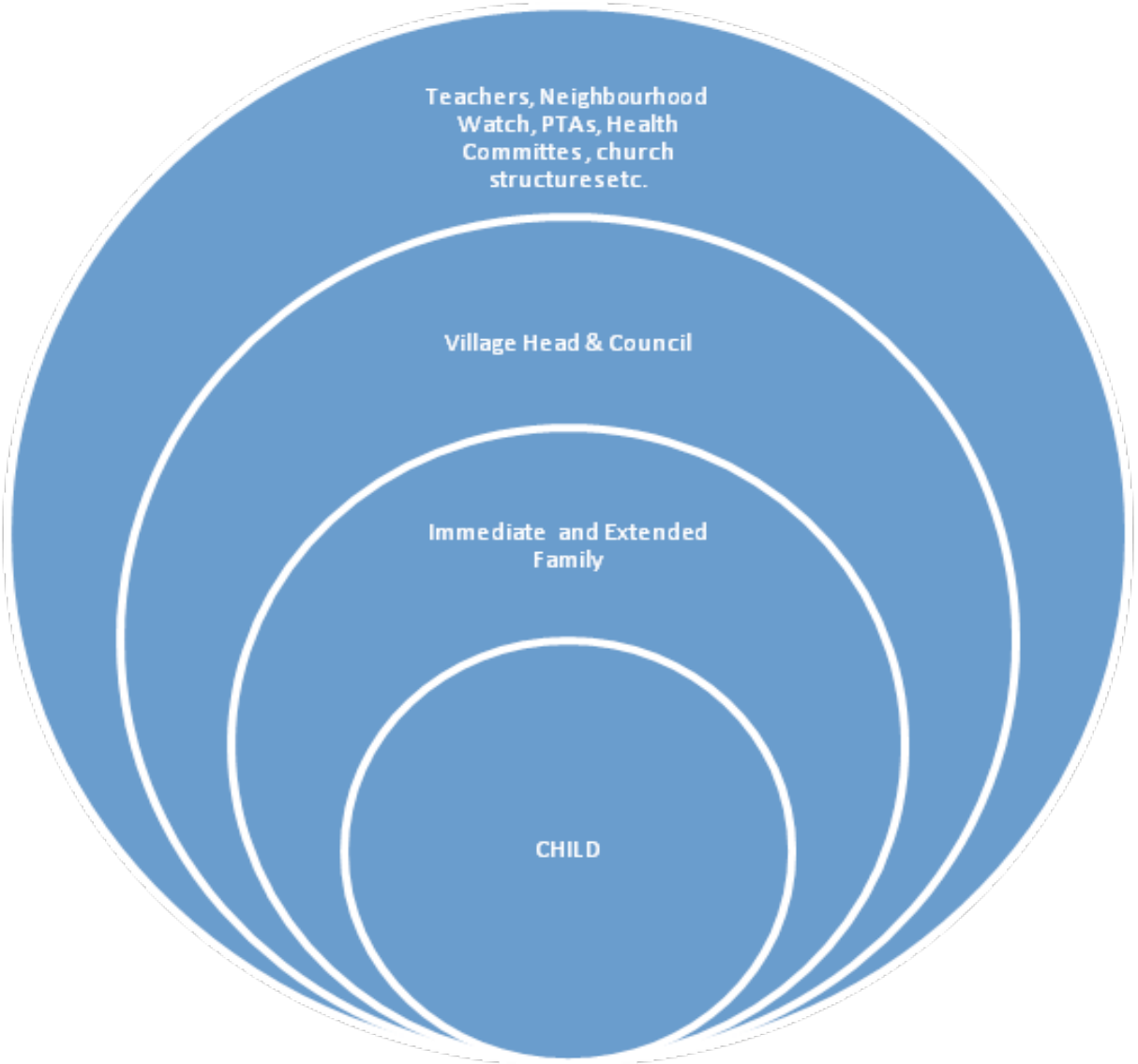
The head of a village also plays an essential role in ensuring a safe development of a child. His/her views and beliefs can influence a child's attendance in school, involvement in work or participation in national health campaigns.

Along with a council of elders, a village head is often involved in adjudicating family matters. In cases where children are victims, (witnesses or in conflict with the law) it is often the village head along with the council who decides if cases should be reported to statutory authorities including the police. The assessment process has found that it was common for village councils to directly resolve cases involving family including cases of child abuse. While this process of village level adjudication is seen as cost effective, the assessment found that determinations are not always in the best interest of the affected child.

Formal and informal community structures are also vital in the healthy development of a child. They provide education, training and support to children. In many communities, churches and places of worship provide both spiritual and moral guidance to children and provide counsel as well as material support to vulnerable households. Youth associations and cultural groups are also pivotal in educating a community and providing healthy avenues for children to express opinions or beliefs.

Problems are also present in the community level structures. Interviewed children, parents and community members including leaders talked of the weaknesses in some of the community level structures. For example, children discussed their lack of participation and consultation in alternative care determinations, as well as in decisions related to employment or early marriage. Women discussed the many challenges they face in getting a fair determination of care arrangements, property division and resolution of abuse or violence matters when utilising the traditional courts.

Diagram 3: Community Level Protection Structure



Ministries Mandates and Challenges

Table 5

Ministry / Division	Roles & Responsibilities	Challenges
Ministry of Gender & Child Development	<ul style="list-style-type: none">Monitoring of organizations providing social services to childrenProvision of financial, organizational, information and technical support to range of stakeholders (including local NGOs) on children's issuesDevelopment & implementation of state policy in the area of protection of rights, freedoms and legitimate interests of children (has a duplicate function as this is also role of each ministry)Approval of annual work plan of the Department of Child DevelopmentPublic awareness raising on child rights & provisions of the UNCRCSupervision of Institutions undertaking activities targeting childrenOversee residential institutionsProvide support to reformatory institutions for children in conflict with the lawAdministration of foster fees to care givers	<ul style="list-style-type: none">Financial and technical shortfallsLack of awareness in staff particularly at provisional and district level on legislative provisions, roles and responsibilitiesMandate overlapPoor coordination among various agenciesLack of mandate at district levelLack of Ministry standing to push through changesLack of political will to address CP issuesLack of accountability for abuses of power
Ministry of Community Development, Mother & Child Health	<ul style="list-style-type: none">Accreditation of organizations providing direct service or activities targeting childrenImplementation of state policy for correction facilities & probation servicesImplementation of state policy in the areas of adoption/ foster care with best interest of childProvide social services to reformatory institutions for children in conflict with the law	<ul style="list-style-type: none">Lack of clear accountability structureLegal and customary law discrepancies particular at provincial and district levels.Lack of oversight on service providers including NGO & Faith Based OrganizationsLack of accurate record keeping and data systems.
Ministry of Home Affairs	<ul style="list-style-type: none">Implementation of state policy on child protection through creation of Victim Support Unit and the Child Protection Unit in the Zambian Police ServiceProvide services to reformatory institutions for children in conflict with the lawDesign and implementation of state targeted programs on protection of rights and best interest of a child re policingImplementation of activities to inform children on their rights and obligations under the juvenile act.Public awareness raising on child rights & provisions of the UNCRC	<ul style="list-style-type: none">Lack of a clear framework for addressing CP issuesLack of child friendly services at all levels
Ministry of Justice	<ul style="list-style-type: none">Oversee legal provisions related to juvenile justice and the penal code as they relate to childrenReview remand provisions related to juveniles every 21 days	
Ministry of Youth and Sport	<ul style="list-style-type: none">Development & implementation of state policy in the area of youth	
Ministry of Education, Science, Vocational Training & Early Education	<ul style="list-style-type: none">Implementation of state policy on child protection at education institutionsDevelopment of legislation regulating protecting rights, freedoms and interests of children in relation to educationPreparation and implementation of state target programs on child protection & educationImplement activities to inform children on their educational rights.	
Ministry of Health	<ul style="list-style-type: none">Development & implementation of state policy in relation to child health (includes preventative care, immunizations, teen pregnancy etc)Promoting access to health care services from low income families in crisisPublic awareness raising on key health issues including HIV& AIDS	
Ministry of Labour	<ul style="list-style-type: none">Development & implementation of state policy in the area of protection of rights, freedoms and legitimate interests of children (has a duplicate function as this is also role of each ministry)	

Civil Society

Civil Society Organizations including NGOs and FBOs have assumed the role of service providers to address the large number of shortfalls in direct service delivery (see text box 10). To date the primary focus has been on providing a range of preventative and direct service interventions. These have included:

- Training of Police and Child Protection Staff on legislative provisions, the vulnerabilities of children, their rights and the continuum of care.
- Sensitization activities have also focused on informing children, care givers, religious leaders, teachers and community leaders on rights, obligations and issues of concern to children in Zambia.
- Direct service activities have included financial and technical support to vulnerable children & families in the form of vocational training, school fee support, organic farming, provision of school supplies, provision of counselling, safe houses, housing, and family strengthening.
-
- In addition, a number of organizations are involved in running foster homes and orphanages providing a range of services including health, education and shelter.

While all these services have very tangible impact on targeted communities, they do little to address the systematic child protection needs of all children in Zambia. Greater coordination is needed to ensure civil society initiatives address shortfalls based on need. Additionally, greater emphasis needs to be placed on the relevant Government authorities resuming their legislative mandates to provide an effective child protection system in which the best interest of the child is always taken into account. By Government resuming its service delivery obligations, NGOs and FBO can more effectively act as watchdogs for the community in ensuring appropriate services are actually delivered by state mandated institutions.

Coordination

Given the diverse range of players involved in child protection from prevention through to response, coordination is essential. Within the findings of the assessment, coordination federally was seen as weak

and ineffective with mandate confusion common. Provincially and at the district level the importance of systematic and consistent coordination was often discussed. Respondents discussed the importance of both state actors and civil society members coordinating all interventions to ensure that service delivery was based on need and agreed Government policy. Government representatives talked of the importance of Faith Based and Civil Society Organizations coordinating interventions and informing state authorities in cases involving children.

Text box 10: Examples of Services Being Provided by Civil Society Agencies

YMCA Zambia

Established in the 1950s in Zambia the YMCA has a diverse range of programming mandates covering HIV/AIDS, youth employment and entrepreneurship and economic empowerment for vulnerable groups. From the protection standpoint they have programs focused on skills building for social workers, as well as shelters and one-stop centers' designed to respond to women and children in crisis.

SOS Zambia

SOS Children's Villages are located in Lusaka, Livingstone and Kitwe. Across the three locations residential care is available for up to 522 children in family houses. The villages also have schooling facilities, nursery programs for early childhood and a range of social services. These social services include outreach programs for HIV affected families, vocational training for youth, and medical and counseling services for vulnerable families including children.

Finance and Budget Allocation

Financial data on budget allocations related to children is limited and further research will be needed to accurately assess allocations for children. In the meantime, the following information is available for initial review and discussion. In the 2012 budget allocation as listed in the Yellow Book, the health sector has been allocated 9.3% of the budget, education 17.5% and Social Protection 2.4%.

Zambia is signatory to both the UN Convention on the Rights of the Child (UNCRC) and the African Charter on the Rights and Welfare of the Child (ACRWC) both of which advocate for substantial child rights budgeting. Additionally, Zambia has signed up to the Abuja commitment in which 15% of the National Budget is supposed to be allocated to the health sector. Historically, Zambia has allocated between 12 and 15% percent of its budget to the health sector. In 2008, the country for example devoted 15.2% of its budget to health issues well above the African median rate of 9.1%. However, in the 2012 budget allocation for health is significantly lower at only 9.3%.

When reviewing Zambia's investment in the education sector, the budgetary commitment for education sees a large increase to 17.5% well above the 7% stipulated under the Dakar commitment. While enrolment rates have increased dramatically, issues still remain in terms of completion rates, teacher-student ratios and quality of teaching. The girl child continues to fall behind the boy child in terms of completion rates due in part to cultural issues such as early marriage.

Social protection is a small sector within Zambia with 2.4% of the budget allocation in 2012 being devoted to supporting vulnerable populations including children. Despite the low allocation, Zambia remains one of the few African countries allocating any funding to this essential sector.

Using the African Child Policy Forum's ranking tool, Zambia is categorized as a country which has allocated a fair amount of resources to children in line with the allocation made by other regional countries such as Zimbabwe, South Africa, Botswana and Namibia.

In spite of this, a number of recommendations can be made on budget allocations related to children. These are:

- Ensure priority budget allocation is given to sectors that promote the wellbeing and rights of children to develop to their full potential.
- Ensure efficient use of resources that have clear accountability measures.
- Ensure adequate support and investment for child protection measures including programs targeting early childhood development.



CHAPTER 7:

Promotion & Prevention

The promotion and prevention of child protection issues in Zambia is a partnership between state actors, civil society organizations and communities.

Structurally, promotion and prevention activities are conducted by Child Rights Committees at the community level which meet on a monthly basis or as a child protection need arises. These community level committees are composed of Government, Quasi Government and civil society members and can include:

- Judiciary
- Zambian Police service through Victim Support Unit and/or Child Protection Unit
- Youth Community Training Centres,
- Social Welfare Officers,
- YWCA and /or YMCA,
- Central Prison Authorities
- Drug Enforcement Commission
- Planned Parenthood Association
- Immigration Department
- Local Media representatives
- District level Education Board Secretary
- Direct Prosecutor’s Office
- District Health Office
- Street Children Association
- National and International Organizations focused on child welfare
- Faith Based Organizations

These committees implement a range of services including sensitization activities on at risk behaviours (HIV, teen pregnancies, drug use etc) as well as promotion of school attendance and use of national health initiatives such as vaccination programs and under five screening.

In Text Box 11; a list of community and Government initiated services related to promotion and prevention are outlined. These services are designed to target vulnerable and include at home visits, psychosocial support, education of parents on the healthy development of a child and the promotion of national initiatives including prenatal care and birth registration.

Text box 11: Government and Community Initiated Prevention Activities

- A. Home Visits
 - Support
 - Advice
 - Information
 - Referrals as needed
- B. Psychological and Social Support
- C. Pre and Post Natal Care
- D. Parental Education (approaches, corporal punishment, nutrition, etc)
- E. Integrated Services for families with chronic illness or children with disabilities
- F. Drug and Alcohol Sensitization Activities
- G. Advocacy and legal support to access birth registration and social services (including cash transfers and social safety nets)

The assessment documented a number of examples of youth groups and school based rights clubs promoting and raising awareness on child rights issues. The running of campaigns addressing key social messages was found to be common and can best be illustrated by the radio messaging focused on addressing gender based violence particularly within the home setting.

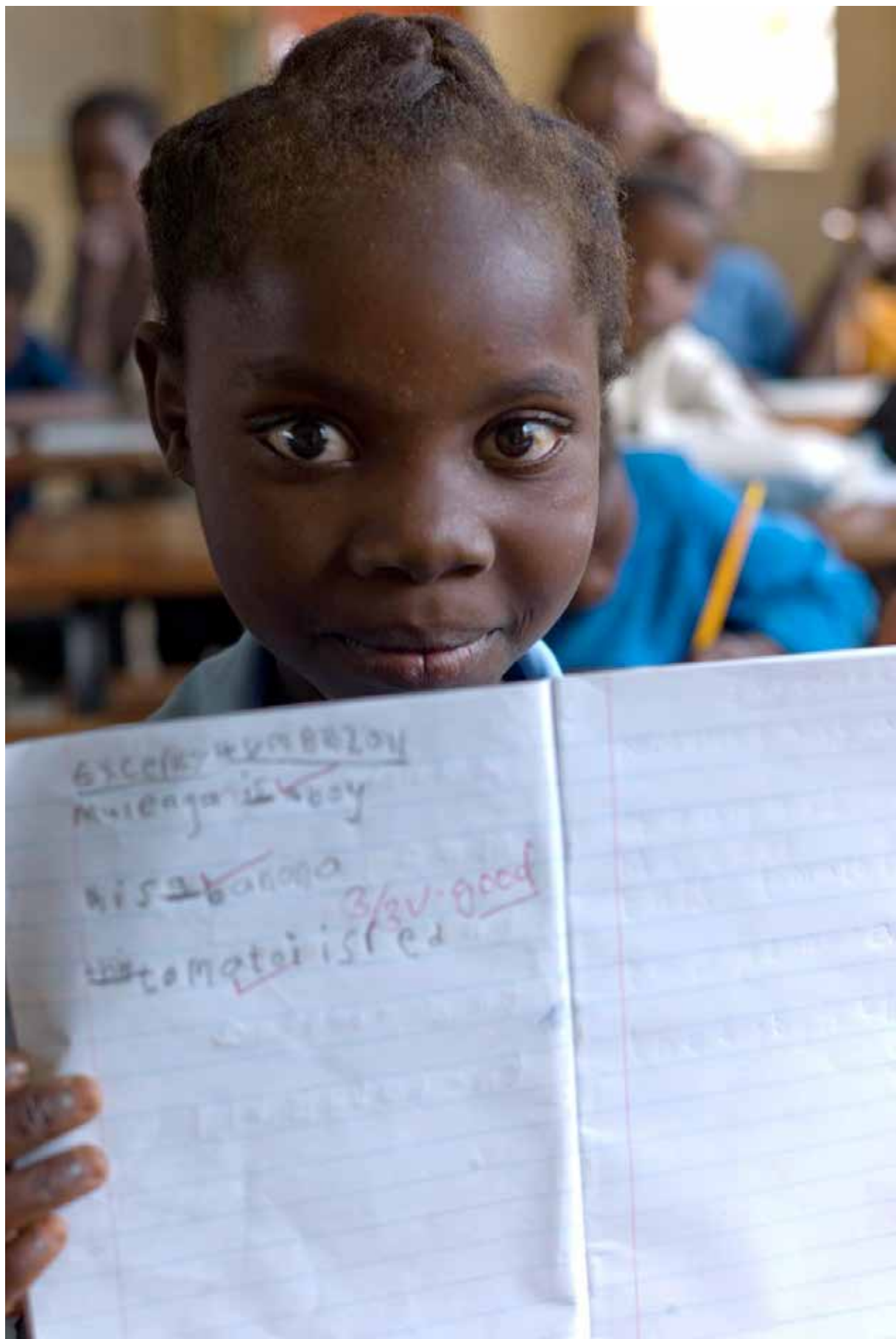
During 2011, a number of national social protection programs were also undertaken. These included the Public Welfare Assistance Scheme (PWAS) serving almost 170,000 clients, the Social Cash Transfer Scheme (64,000 beneficiaries), the Food Security Pack (FSP) serving 35,000 people and the Assistance to Basic Education Scheme. ⁵⁵ These social protection schemes are targeted at particular vulnerable groups including orphans or children without homes.

The existing national and community level prevention programs have reached a large numbers of vulnerable

populations. However, challenges have remained. In text box 12; some pressing challenges are discussed. They include the lack of staff presence at the community level, insufficient funding levels to address needs, restrictive nature of selection criteria for many welfare programs, as well as poor awareness of community members on available services.

Text box 12: CHALLENGES TO PREVENTION SERVICES

- Lack of funding
- Lack of human resources with adequate training & experience
- Lack of legislative understanding
- Lack of legislation on guardianship
- Confusion on decision mandate between Ministries, social work staff, police and staff of NGOs and FBO
- Limited monitoring and follow up
- Geographical distances and narrow catchment criteria
- Lack of facilities at community level to disperse payments or provide services
- Lack of case record keeping and data bases
- Lack of understanding and use of best interest determinant
- Narrow selection criteria that do not include all vulnerable groups in the community



CHAPTER 8: Response

There is a clear legislative and policy provisions covering child protection in Zambia. In diagram 4, the existing continuum of care in Zambia that covers both prevention and response measures are outlined. As can be seen there is a two-fold response system in which the first layer covers community based interventions for at risk families while the second level includes an escalation of service by the provision of alternative care services.

Level one service include gate keeping services for vulnerable families, monitoring mechanisms, and targeted programs to address drug and alcohol abuse and domestic violence. Additionally, this level of child protection response includes programs to trace and reunify families.

The response mechanisms can be further escalated to include provisions on alternative care that can be broken down into a number of areas. Firstly, there is informal and kinship care as advocated for under Customary Law. Additionally, there are provisions for formal care that has two levels with initial focus on promoting foster or residential care followed by more permanent solutions with domestic and international adoption. Vulnerable families can move between the various levels of service based on their level of vulnerability.

Presently, the community through Civil Society Organizations provides response system to addressing child protection concerns. The assessment revealed that it was common for civil society organizations to provide crisis services such as shelters for domestic violence victims as well as residential institutions for children. The assessment research found that it was routine for civil society organizations in Zambia to institutionalize vulnerable children (irrespective of their family status) without the formal approval of state authorities. The assessment found that this lack of accountability by both state authorities and Civil Society Organisations made children vulnerable to abuse and exploitation.

In text box 13; the challenges to providing services at the community level and in the alternative care arena are presented and include:

- Use of alternative care arrangements was being

used prematurely with children in crisis not being offered community based response services which could better address household vulnerability and allow for a child to remain with immediate or extended family.

- Assessment, referral, registration, coordination, information system and monitoring mechanisms were found to be weak or non-existent
- Stakeholders lacked a shared common understanding of services for child protection and how end users could access and utilize these services.
- Cross agency mandates and links between national and community level service providers was not always clear.
- Problems existed on the coordination of services with referral not always occurring.
- Management of children’s protection cases was not formalized with most cases having no documentation.

Text box 13

Challenges to providing Community level Response Services

- Delayed or insufficient response
- Lack of understanding of alternatives
- Roles of customary law
- Superseding statutory law

Challenges to Providing Alternative Care Services

- Informal or Kinship Care*
 - Poor monitoring
 - No guardianship or court orders
 - No record keeping or case files
- Formal care (foster & adoption)*
 - Poor follow up cases
 - Lack of court referrals and/ or information sharing by institutions
 - Limited cases workers
 - Slow procedures
 - Corruption
 - Best interest not applied

CHAPTER 9: Recommendations

Data for Decision Making

It is clear from the field research and literature review that accurate, timely and desegregated data related to children in the age cohort 0-18 years is poor. Data that is available is often out of date and does little to assist policy planners to accurately review the extent of a child protection issue. Policy makers should consider if it would be helpful to generate a document similar to the Demographic Health Survey which would specifically look at children and their concerns and issues.

Presently, there are no national, regional or district level databases that accurately track children at risk or using social services including those in conflict with the law. The establishment of both national and devolved data bases would assist both statutory authorities and civil society to better serve child clients. The Government of the Republic of Zambia and its civil society partners would benefit from conducting joint research on hidden child protection concerns including child trafficking (internal & external), harmful traditional practices (including child marriage, virgin cure and labia elongation), homelessness, child abandonment and property grabbing. Research would also be helpful on kinship care to assist the Government to better regulate and monitor children in this alternative care system.

Lastly, there is a need to set national, provincial and district level child protection indicators that Government, community and civil society can use to monitor and evaluate the level of service being provided to children in need.

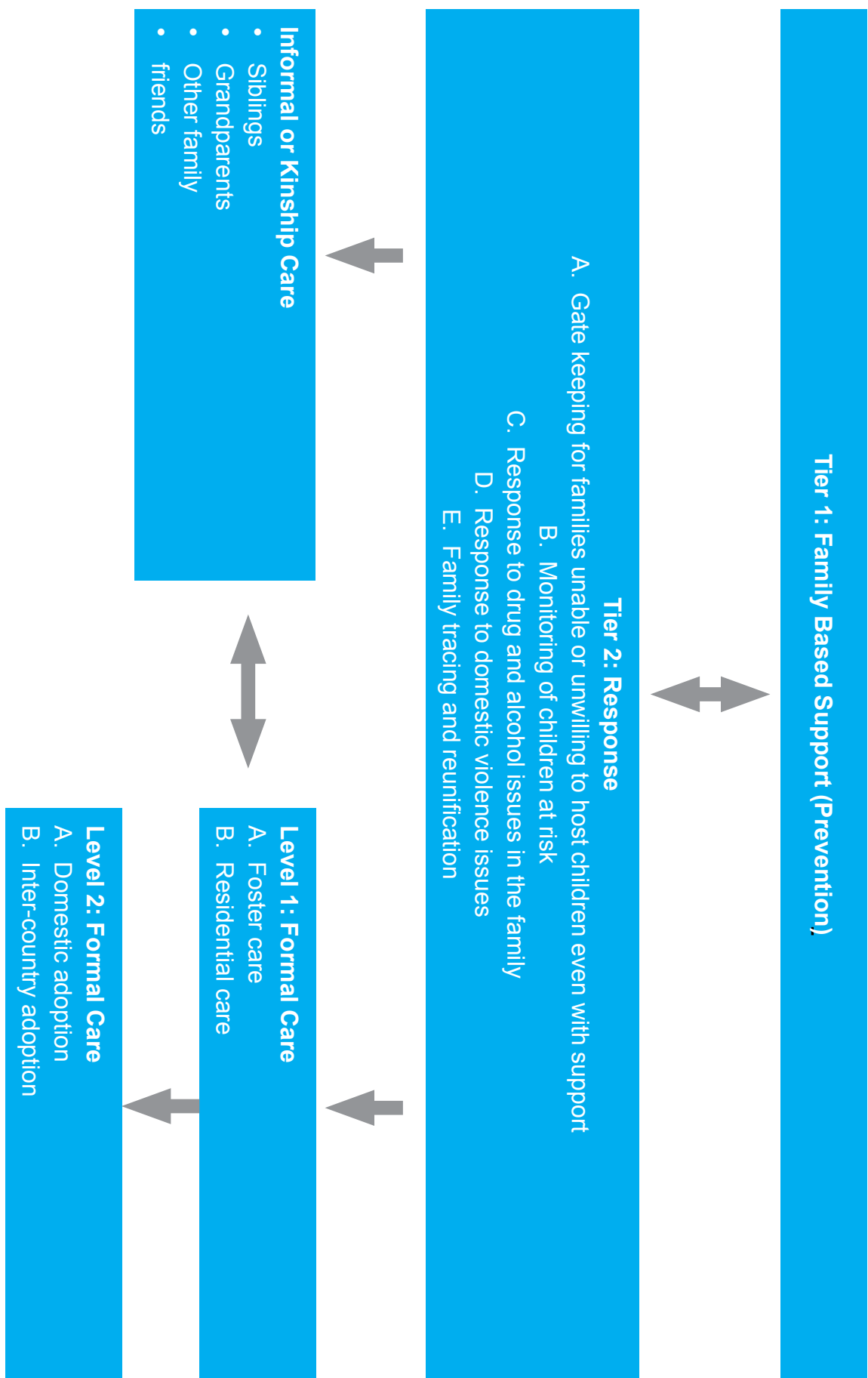
Priority Gaps & Recommendations for Moving Forward

Gaps

Gaps exist in both the technical and financial capacity of the society to respond to child protection concerns in Zambia. Issues also arise around the equitable access to available services. The following below is a list of some significant gaps unearthed during the assessment and literature review process:

- There is lack of or insufficient general capacity in the formal and informal structures to provide a protective environment for children. This includes financial and technical shortfalls in staffing.
- There is insufficient skilled staff to serve at provincial, district or community level.
- Lack of a well coordinated national framework on addressing child protection in Zambia that covers policy, legislation, coordination mechanisms, agency mandates, budgets, staffing, monitoring and service delivery
- The child affairs Legislative issues are split and not harmonized (age of a child, applicability of customary law, application of the best interest principle, and arrest procedures for minors).
- Impartial complaints mechanisms for children following mistreatment at the hands of service providers (including residential institution staff, prisons officials or police) is inadequate and often unavailable.
- Accountability and transparency mechanisms are weak with service delivery by Government and civil society remaining poor and vulnerable to corruption.
- Community understanding of legal provisions for children and available services is poor and often inaccurate.

Diagram 4: Continuum of Care (Child Protection)



Recommendations

The recommendation sections of this report are extensive and for ease of reading have been divided into a number of sections. General recommendations for Government; civil society and donors; changes to the legislative framework; service delivery; funding priorities; advocacy; training and awareness raising. Specific recommendations have also been listed for key Ministries and Division. Lastly, an extensive list of recommendations for each child protection issue unearthed during the research.

General Recommendations

Group	Category	Recommendation
Government	Policy and Legal	<ul style="list-style-type: none">• Need to align both customary and statutory law with the United Nations Convention on the Right of the Child and other national and international conventions and legislative provisions.• Zambian Law and Development Commission should continue to review legislative and customary laws with a view of harmonizing the provisions on children's rights and bringing them in line with the United Nations Convention on the Right of the Child.• Development of a centralized child protection framework that includes legislative and policy provisions, agency mandates, adequate budget provisions, staffing requirements, service delivery provisions and monitoring and oversight mechanisms.• Review guardianship provisions to ensure that children in alternative care are adequately protected.• Take measures to ensure that child victims of abuse are not criminalized by providing adequate care and rehabilitation services to child victims• Formalize the process of children being placed in alternative care by providing greater oversight and monitoring. Best interest of the child principle is needed to ensure children are removed from harm and where possible remain with siblings and family.• Construct and monitor separate detention facilities for children in conflict with law.• Safe houses should be regulated with minimum standards of service. Ongoing monitoring and annual registration should be occurring.• Key child protection positions and services need to be devolved to the district or community level.• Establish a comprehensive policy which should include children with disabilities, early detection mechanisms as well as data collection provisions.• Resource and technical assets should be channelled to allow for the full implementation of the National Child Policy and the National Action Plan.• A comprehensive data collection system should be developed to allow adequate planning and resource allocation for vulnerable groups of children.• Creation of a centralized filing system that contains case files, listing of vulnerable populations etc and which can be accessed by provincial and district staff• Coordination structures should be established to ensure service delivery is appropriate and based on need.• Cost/benefit analysis should be undertaken by Government to evaluate proposed prevention and response measures for child protection• Ensure birth registration is enforced
	Service Delivery	<ul style="list-style-type: none">• There is a need for existing and future services for children to be accessible by children. The process of accessing services should be streamlined and made to be user friendly with a clear sensitization campaign to inform children, caregivers and key community members (such as teachers) on available services and steps to access.• Investment is needed in human capacity and infrastructure to improve the service delivery to marginalized groups• Services that are outsourced to civil society should be carefully regulated and monitored.• Establish special educational and vocation programs to allow for children with disabilities to complete schools and gain meaningful employment.• Establish an independent complaints mechanisms for children in institutional care or correctional services to raise issues of concern• Ensure birth registration is accessible for all.

Group	Category	Recommendation
	Advocacy, Awareness Raising and Training	<ul style="list-style-type: none">• Ensure training and sensitization activities are conducted with adults and children on children's rights.• Train key Government and civil society personnel including judges, lawyers, law enforcement, teachers, school administrators, health personnel and child care workers on the care, protection and promotion of children's rights.• Encourage the participation of children in decision making particularly in areas pertaining to their welfare.• Undertake periodic monitoring of institutions working with children including shelters and orphanages.• Increase resources and trainings to Victim Support Units and Child Protection Units in order to effectively respond to complaints of rights violations against children including sexual abuse and exploitation.
Civil Society		<ul style="list-style-type: none">• Civil society actors should work to shift focus from short term goals to long term goals in order to support Government.• Services that are outsourced to civil society should be carefully regulated and monitored.• Civil Society Organizations should keep Government accountable to the needs of the children.• Encourage the participation of children in decision making particularly in areas pertaining to children welfare.• Conduct regular research in order to generate and inform decisions.• Promote documentation and sharing of best practices among civil society with a view of building up child rights programming among Civil Society Organizations.• Where appropriate establish a peer mentoring program to ensure full engagement of civil society in policy decision making• Conduct sensitization activities with communities including children on child rights• Support ongoing training program for personnel working on child protection issues.• Support the state to develop a data collection system for collecting information on children under 18 with a specific emphasis on key child protection issues.• Help to develop indicators for effective monitoring and evaluation of child protection policy in addressing the child protection needs of children in Zambia.• Develop a monitoring system to track violations of children's rights. This monitoring system should include a victim and perpetrator register and clear case files on vulnerable children including those in conflict with the law.
Donors		<ul style="list-style-type: none">• Provide technical and financial support to the government to fulfil its United Nations Convention on the Rights of the Child obligations• Ensure budget allocations are based on need and priority areas• Support programs that look to address root causes of child protection.

Specific Ministry Recommendations

Ministry/ Department/ Division	Recommendations	Implementation Phase
Gender and Child Development Division	Initiate and develop national policy, programs, strategies and action plans related to child rights and protection.	<ul style="list-style-type: none">Review the impact of national plans, policies, programs and strategies on addressing Child Protection issues at the community level.Provide support to line ministries to develop polices, and strategies related to service delivery for children.Coordinate and monitor the process made to address child protection needs (this includes monitoring against national and international commitments)Provide support to civil society and communities to provide services to children and families at riskDevelop and manage an information system looking at child protection issues in Zambia
Ministry of Community Development, Mother and Child Health	Initiate and develop programs, strategies and action plans at the community level.	<ul style="list-style-type: none">Based on community needs provide recommendations to national policies, programs, strategies or actions.Provide economic support to vulnerable families through cash transfer etc schemesRepresent children in conflict with the law, children in need of guardianship in legal mattersSupervise, manage and monitor social services provided by state, civil and community actorsDevelop and manage children in informal or alternative care including fostering and adoption.Identify vulnerable families and children in need of support services to prevent and respond to abuse, neglect etc.Conduct case reviews of children in alternative care to ensure best interest of child in placement determinationProvide Family Support- counselling centres for child victims of abuse, forced labour etc, day care facilities, outreach services for vulnerable families and children with disabilities, centres to support mother.Provide support to alternative care strategies including foster services, kinship care and where appropriate adoption.Provide residential facilities and shelters for vulnerable families.Develop a network of social services for children and families at riskClear and concise record keeping of child protection cases is needed to ensure follow up occurs
Ministry of Education, Science, Vocational Training and Early Education	Provide educational programming for vulnerable children including for children with special needs and children at risk of working, abuse or exploitation.	<ul style="list-style-type: none">Ensure access to all children including children from economically vulnerable households or who are in alternative careProvide nutritional inputs for at risk childrenProvide specialized educational services for children with disabilitiesDevelop new teaching approaches and curricula that address children rights and needsDevelop the Education Child Protection Policy for schools and community

Recommendations on Child Protection Issues

Child Protection Issues	Recommendations
Children in the Justice System	<ul style="list-style-type: none">Review is needed of juvenile detention practices to ensure divergence approach is adopted and children are not kept in remand for lengthy periodsSet up mechanisms that are sensitive to children to receive complaints against law enforcement personnel (police, prisons, reformatory staff) regarding ill-treatment during arrest, remand questioning and detentionSystematic training, monitoring and enforcement with police, prison staff and other staff on minimum human rights provisions for childrenEnsure separate detention facilities for children in conflict with law.
Child Labour and Homelessness	<ul style="list-style-type: none">Ensure proposed interventions on child labour target children at risk of entering the work force as well as those already engaged in child labour and/or in the worst forms of economic exploitation in order to adequately address the problem.Social cash transfer schemes needed to be extended to cover the most vulnerable populations in remote regions of the countryEducation policy should ensure that accelerated programs or second chance schools are provided for older students who have failed to complete schooling due to labour commitmentsEnsure children found to be working in breach of labour law are withdrawn and provided with support servicesChild Labour concerns should be mainstreamed and included in broader poverty reduction and development plansBetter coordination is needed between relevant ministries and departments to ensure coordination of service and delineated roles and responsibilitiesGreater enforcement, monitoring and accountability is needed on existing legal provisions including child labourStreet children programming should not be a standalone but rather included within a child protection framework.Ensure service delivery for the physical and psychological recovery and integration of child victims of child labour
Child Marriage and Harmful Traditional Practices	<ul style="list-style-type: none">Greater enforcement, monitoring and accountability is needed on existing legal provisions including child marriageEnsure service delivery for the physical and psychological recovery and integration of child victims of child marriage and other harmful traditional practicesConduct sensitization and dialogue programs with communities to discuss the impact of child marriage and other harmful traditional practices on the healthy development of a child.
Birth Registration	<ul style="list-style-type: none">All children should be registered at birth with special measures needed to ensure delayed registration processes do not incur direct or indirect costs for families or individuals.Annual campaigns use and compilation of village registers along with mobile registration programs could be utilized to enhance birth registration.
Child Trafficking, Exploitation	<ul style="list-style-type: none">Ensure service delivery for the physical and psychological recovery and integration of child victims of exploitation and traffickingEnsure enforcement of legislative provisions preventing the practiceConduct community consultations on the impact of trafficking, exploitation and abuse on children and their communities.
Abuse and Gender Based Violence	<ul style="list-style-type: none">Ensure service delivery for the physical and psychological recovery and integration of child victims of Gender Based Violence and abuseEnsure enforcement of legislative provisions on Gender Based Violence and abuseConduct community consultations on the impact of Gender Based Violence and abuse on children and their communities
Orphans and Children in Need of Alternative Care	<ul style="list-style-type: none">Ensure children meaningfully participate in the decision making related to their care. When alternative placement is considered with extended family, friends or institutions children's opinion should be sought and considered prior to the placement.Greater regulation and monitoring is needed of alternative care facilitiesCase management decisions for children should be made by court order and not by Faith Based Organisation or Non – Government Organisation running alternative care facilitiesProvide additional training to social welfare officers on undertaken periodic monitoring of institutions working with children including shelters and orphanages.Ensure all children are given guardianship provisions during alternative care processes



Appendix 1:

Definitions of Key Child Protection Terms

Alternative care

This is provided where the child's own family is unable, even with appropriate support, to provide adequate care for the child, or abandons or relinquishes the child. It may take the form of informal care or formal care. With respect to the environment where it is provided, alternative care may be: kinship care, foster care, and other forms of family-based or family-like care placements, residential care, or supervised independent living arrangements. (Source: Guidelines for the Alternative Care of Children, 2009).

Birth registration

Registering of a child at birth with name, nationality and right to know and be cared for by parents. (CRC Article 7)

Child

Every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier. (Article 1 of the CRC)

Child abuse

A deliberate act of ill treatment that can harm or is likely to cause harm to a child's safety, well-being, dignity and development. Abuse includes all forms of physical, sexual, psychological or emotional ill treatment (Save the Children UK)

Child in Conflict with the Law

A 'child in conflict with the law' means any child who comes in contact with law enforcement authorities because he or she is suspected -- or has been found guilty -- of breaking the law. (UNICEF - Diversion and Alternatives to Detention, 2009)

Child Labour

Any work performed by a child which is detrimental to his or her health, education, physical, mental, spiritual, moral, physical or social development. The concept

of child labour is based on the ILO Minimum Age Convention, 1973 (No. 138) which represents the most authoritative international definition of minimum age of admission to employment or work. Whether or not a particular form of "work" can be called "child labour" depends on the child's age, type and hours of work performed, conditions, etc.

Child Protection

Article 19 of the UNCRC outlines the obligations of countries that have ratified the convention in addressing child protection as follows; *'State Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.'* (Article 19 of the UNCRC)

Child Sexual Abuse

a) Engaging in sexual activities with a child who, according to the relevant provisions of national law, has not reached the legal age for being sexually active; b) Engaging in sexual activities with a child where: use is made of coercion, force or threats; or abuse is made of a recognized position of trust, authority or influence over the child, including within the family; or abuse is made of a particularly vulnerable situation of the child, notably because of a mental or physical disability or a situation of dependence. It should be noted that the provisions of paragraph a) are not intended to govern consensual sexual activities between children under the age of 18 years. (Article 18 of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse).

b) Child sexual abuse and child sexual exploitation also include:

child prostitution and, child pornography, the participation of a child in pornographic performances (including recruiting, coercing and causing a child into participating in pornographic performances or profiting from or otherwise exploiting a child for such purposes and knowingly attending performances involving the participation of children), intentional causing, for sexual purposes, of a child who has not reached the legal age for sexual activities, to witness sexual abuse or sexual activities, even without having to participate, and the solicitation of children for sexual purposes. (Source: Articles 18-23 of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse)

Continuum of care

The continuum of care delineates the specific ways in which the system responds to rights violations (promotion, prevention and response). (Chapin-Hall, “A Systems Approach to Child Protection”)

Juvenile

A child or young person who, under the respective legal systems, may be dealt with for an offence in a manner which is different from an adult. (“Beijing Rules” adopted by General Assembly resolution 40/33 1985)

Minimum age of criminal responsibility

Age below which children shall be presumed not to have the capacity to infringe penal law. (Convention on the Rights of the Child)

Neglect

The failure of parents or carers to meet a child’s physical and emotional needs when they have the means, knowledge and access to services to do so; or failure to protect him or her from exposure to danger. (United Nations World Report on Violence against Children, 2006, page 54.)

Parent

A child’s biological mother and father or another adult who has adopted the child. (Save the Children UK)

Protective environment

The protective environment framework sets out eight broad, pivotal elements that determine children’s protection from violence, exploitation, and abuse. The eight elements are key to creating, or strengthening, a protective environment around children are Government Commitment and Capacity; legislation and Enforcement; Culture and Customs; Open Discussions; Children’s Life Skills, Knowledge and Participation; Capacity of Families and Communities; Essential Services and Monitoring, Reporting and Oversight. (UNICEF Child Protection Strategy, 2008)

Residential care

Care provided in any non-family-based group setting, such as places of safety for emergency care, transit centres in emergency situations, and all other short and long-term residential care facilities including group homes. (UN Human Rights Committee, Guidelines for the Alternative Care of Children, 2009). Other terms used for this form of care are institutional care and orphanages.

Sexual exploitation of children/ commercial sexual exploitation of children (CSEC)

The abuse of a position of vulnerability, differential power, or trust for sexual purposes; this includes profiting monetarily, socially or politically from the exploitation of another as well as personal gratification e.g. child prostitution, trafficking of children for sexual purpose, child pornography, sexual slavery (Save the Children).

Appendix 2: Bibliography

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- UN Convention on the rights of the child (UNCRC)

Appendix 3: Notes

- 1 Government of Zambia (2010) “Census”.
- 2 Government of Zambia (2007) “Demographic Heath Survey” & International Labor Organization (2009) “Understanding Child Labor: Zambia”.
- 3 Government of Zambia (2007) “Demographic Heath Survey”
- 4 A Statutory System is defined as the mandatory, state initiated system that protects children from harm and mistreatment. This system includes policy and legislative provisions as well as the roles and responsibilities of the state service providers. Statutory systems also include service delivery, staffing and monitoring and evaluation mechanisms.
- 5 A Non-Statutory Child Protection System includes structures, resources and capacities provided by the community and civil society actors to address issues of concern for children.
- 6 Juvenile Act refers to a person below the age of 19 years while the Penal Code sets the minimum age of criminal responsibility at 8 years.
- 7 Dialogue is currently underway to look at ways to amend legislative instruments to adhere to the provisions stipulated in the UNHCR and those outlined in other international conventions that Zambia is signatory to.
- 8 In Zambia the legal age of criminal responsibility is set at 8 years.
- 9 Legal representation and case support is carried out through the Legal Aid Department and the Social Welfare Department.
- 10 In the 2011 report “Imprisoned and imperilled: Access to HIV & TB Prevention and Treatment & Denial of Human Rights in Zambian Prisons” 5% of children stipulated they had been brought before a judge within 24 hours of arrest. On average children were waiting up to 7 months in remand before a case was being heard.
- 11 Under customary law lawyers are banned from participating in court proceedings.
- 12 UN minimum rules for the administration of Juvenile Justice (Beijing Rules, 1985)
- 13 Corporal punishment was banned as a sentencing option for young offenders in 2003.
- 14 Livingstone and Kamwala Remand had 9 children each; Mansa had 13, Mongu seven and Solwezi ad three children being held.
- 15 Detained juveniles are protected from abuse under the Juvenile Act however deterrent measures for abusers are minimal.
- 16 United States of America-Bureau of Democracy, Human Rights and Labor (2011) “Human Rights Report: Zambia”.
- 17 United States of America-Bureau of Democracy, Human Rights and Labor (2011) “Human Rights Report: Zambia” reports the case of a 14 year old boy being held in remand for two years without being brought to trial.
- 18 Human Rights Commission (2004) “Lusaka Province Prison and Detention Facilities Report”.
- 19 The amended act does allow for children aged 13 to 15 years to undertake light work which does not interfere with schooling. Concern arises as there are no formal enforcement mechanisms for children working below the legal age.
- 20 UCW (Understanding Children Work- Inter Agency Research Cooperation Project) (2011) “Towards Ending Child Labour in Zambia: An Assessment of Resource Requirements”.
- 21 Government of Zambia (2008) “Situational Analysis of Children and Women”.
- 22 UCW (Understanding Children Work- Inter Agency Research Cooperation Project) (2011) “Towards Ending Child Labour in Zambia: An Assessment of Resource Requirements”.

- 23 UNICEF (2008) “Alternative Care for Children in Southern Africa: Progress, Challenges and Future Directions”.
- 24 United States of America-Bureau of Democracy, Human Rights and Labor (2011) “Human Rights Report: Zambia” estimates there are between 20,000 and 30,000 children who live on streets surviving by begging or prostituting.
- 25 Human Rights Commission and Save the Children (2009) “Implementation of UNCRC: Desk Review”.
- 26 United States of America-Bureau of Democracy, Human Rights and Labor (2011) “Human Rights Report: Zambia”.
- 27 Ibid
- 28 Government of Zambia (2007) “Demographic Health Survey”.
- 29 CHIN (-) “Policy Brief: Child Marriage”.
- 30 Chisungu Ceremony for Girls and the Ceremonies mukanda Initiation Ceremony for Boys include education on entering adulthood, skill building and handling spousal relationships. They both include extensive absences from school of between three and six months.
- 31 CHIN (-) “Policy Brief: Child Marriage”
- 32 Government of Zambia (2007) “Demographic Health Survey”.
- 33 African Child Policy Forum (2010) “The African Report on Child Wellbeing 2011: Budgeting for Children (Country Brief- Zambia)”.
- 34 OMCT (2007) “Human Rights Violations in Zambia”.
- 35 Ibid.
- 36 If a perpetrator can prove he believed his child victim was over the age of 12 he can be acquitted or receive a lesser sentence. Given the challenges in birth registration proof of age is being made on appearance and behavior rather than actual age.
- 37 United States of America-Bureau of Democracy, Human Rights and Labor (2011) “Human Rights Report: Zambia”.
- 38 Defilement is defined by law as “unlawful carnal knowledge of a child under the age of 16”.
- 39 Challenges remain on forensic services. Issues also arise on the age of victim as many children do not have birth registration documents.
- 40 United States of America-Bureau of Democracy, Human Rights and Labor (2011) “Human Rights Report: Zambia”.
- 41 Government of Zambia (2007) “Demographic Health Survey.
- 42 Ibid
- 43 UNICEF (2008) “Alternative Care for Children in Southern Africa: Progress, Challenges and Future Directions”.
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- 45 Government of Zambia (2007) “Demographic Health Survey.
- 46 HIV Prevalence in widows is estimated at 54%. This may have a profound affect on the future of children being raised by grandparents.
- 47 UNICEF (2008) “Alternative Care for Children in Southern Africa: Progress, Challenges and Future Directions”.
- 48 There are over 191 orphanages or organization operating orphanages registered since 2005 servicing in excess of 5000 children.
- 49 UNICEF (2008) “Alternative Care for Children in Southern Africa: Progress, Challenges and Future Directions”.
- 50 Less than 1% of orphaned children are approximately 13,000 children well above the 5000 currently documented.
- 51 Ibid.
- 52 Ibid.
- 53 US Department of State- Inter-Country Adoption Statistics, 2011.
- 54 UNICEF (2008) “Alternative Care for Children in Southern Africa: Progress, Challenges and Future Directions”.
- 55 Ibid.

List of Acronyms / Abbreviations

AIDS:	Acquired Immune Deficiency Syndrome
CHIN:	Children in Need Network
CPD:	Child Protection Department
CPC:	Criminal Procedure Code
DEBS:	District Education Board Secretary
FBOs:	Faith Based Organizations
FGDs:	Focus Group Discussions
GRZ:	Government of the Republic of Zambia
ILO:	International Labour Organization
ITNs:	Insecticide Treated Nets
MDGs:	Millennium Development Goals
MoFNP:	Ministry of Finance and National Planning
MoH:	Ministry of Health
MCDMCH:	Ministry of Community Development, Mother and Child Health
CD:	Child Development
OCC:	Office of the Commissioner on Children
PTA:	Parents Teachers Association
RDC:	Resident Development Committee
SIR:	Social Inquiry Report
SOS:	Save Our Souls
UN:	United Nations
UNICEF:	United Nations Children’s Fund
UNCRC:	United Nations Convention on the Rights of the Child
UNHCR:	United Nations High Commission of Refugees
YWCA:	Young Women Christian Association
ZDHS:	Zambia Demographics and Health Survey
ZNS:	Zambia National Service

