

**Submission for the 41<sup>st</sup> UPR session**

**Universal Periodic Review of Zambia**

*(Nov 2022)*



**Organisations submitting the report**

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

**The Justice Desk** is a Human Rights non-profit organisation based in South Africa, Zambia, and Zimbabwe, established in 2013 with the primary goal of Promoting the Power of Everyday Activism. In order to do this, we empower ordinary people to understand and defend their Human Rights -so that they can transform society and create a more just and equal world! We also work alongside civil society, NGOs, businesses, and governments across the globe to challenge and eliminate the root causes of injustice.

**St. Raphael's Secondary School** is a public secondary school for boys. Located in Livingstone (Southern-Zambia) this school has a strong focus on the role of civil society in building a more just and sustainable future for all.

**Zambian Western Cluster** is a community engagement program based in Zambia who empower vulnerable citizens, who include differently abled persons, children and adults at risk of abuse, to be made aware of their rights to protection and equal opportunities- through advocacy, functional literacy, education, sustainable livelihoods & justice.

## Introduction

1. Zambia has historically shown strides in the progression of human rights through guaranteeing certain rights via the state's constitution, but Zambia's overall human rights record remains poor. Previous cycles of recommendation and reform have shown a lack of action. Our research found that individuals largely want the government to consider and take action to protect their human rights more seriously.
2. We acknowledge the immense impact the COVID-19 pandemic has had on all individuals across Zambia, noting the even more significant impact it has had on oppressed and marginalised groups. However, we remain optimistic that sustained and inclusive long-term efforts will overcome the stagnation of efforts to uphold human rights.
3. The data and information obtained for this submission came from various sources, including conducting interviews, primary reports, and secondary sources.
4. In line with the UPR's aims which include; creating and mobilising different networks, raising awareness, and more forceful advocacy, this report has been divided into five focus areas. We believe these are the most pressing in ensuring the full realisation of human rights in Zambia. In this regard, this report focuses primarily on the legislative deficits and government shortfalls.

## I. Child Marriages

5. Zambia has been continuously urged in previous UPR cycles<sup>1</sup> and in concluding observations from the UN Child Rights Committee<sup>2</sup> to prevent and protect against child marriage. Although Zambia supports these recommendations, child marriage remains a significant issue. Zambia is facing a child bride epidemic, in which 400,000 of 1.7 million child brides are married before age 15.<sup>3</sup> This is partially due to a lack of cohesion amongst the definition of a child within the legal sphere. The Zambian Constitution and the Education Act define a child as a person under 18 years, whereas Penal Code dictates that a child is a person below 16, and the Intestate Succession Act does not provide an age limit at all.<sup>4</sup> This lack of clarity surrounding the definition of a child has led to problems prosecuting such acts against children.
6. Children in Zambia often marry without the support or consent of their parents.<sup>5</sup> Early marriage is often seen as enticing to children because it offers a change in living situation, enhances social status, or allows children to remain within a specific peer group.<sup>6</sup> These marriages often do not last longer than a year, and divorce is common.<sup>7</sup>

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<sup>1</sup> Recommendation 131.85 (Tunisia), 131.99 (Argentina)

<sup>2</sup> "UN Child Rights Committee issues findings on Cambodia, Canada, Chile, Croatia, Cuba, Cyprus, Djibouti, Greece, Iceland, Kiribati, Somalia and Zambia." 2022. OHCHR. <https://www.ohchr.org/en/press-releases/2022/06/un-child-rights-committee-issues-findings-cambodia-canada-chile-croatia-cuba>.

<sup>3</sup> "ZAMBIA." 2020. UNICEF. <https://www.unicef.org/media/111416/file/Child-marriage-country-profile-Zambia-2021.pdf>.

<sup>4</sup> Hichilema, Hakainde. 2018. "Harmonise law in fight against child marriage" – Zambia Daily Mail." Zambia Daily Mail. <http://www.daily-mail.co.zm/harmonise-law-in-fight-against-child-marriage/>.

<sup>5</sup> Mann, G., Quigley, P. and Fischer, R. (2015) Qualitative Study of Child Marriage in Six Districts of Zambia. Lusaka: UNICEF and Government of Zambia. pg. 9

<sup>6</sup> Mann and Fisher, 36-37

<sup>7</sup> Mann and Fisher, iii

7. The government of Zambia seeks to address the localized nature of child marriage by promoting the Community for Welfare Area Committee (CWAC). While advocates for CWAC have been able to manage and prevent child marriages in several situations,<sup>8</sup> there is confusion among CWACs regarding their abilities and obligations in preventing child marriage.<sup>9</sup> Moreover, CWACs often lack the resources and training to address child marriages in their communities.

8. Throughout Zambia, widespread campaigns highlighting child marriages have been implemented, alongside two recent legislative acts which have aimed to safeguard children from child marriages and other abuses.<sup>10</sup> The National Strategic Plan on Ending Child Marriage in Zambia 2016-2021 also seeks to remedy the issue.<sup>11</sup> This highlights plans to develop and facilitate changes within policies and legislation to reduce the occurrence of child marriages; however, the measures still prove non-reactive rather than proactive.

### **Recommendations:**

- 1. Redouble financial, political, and educational support for CWAC as a community-focused approach to preventing child marriage<sup>12</sup> and inform CWAC representatives on federal laws regarding child marriage.***
- 2. Redouble efforts to effectively run clear and concise campaigns to educate the youth population on the adverse effects of child marriage and the availability of options for a more enhanced life following the completion of education.***
- 3. Strengthen legislation protecting those classified as children under the Zambian Constitution from child marriage and other abuses, regardless of education status, and prohibit child marriage under customary law and any law of general application.***
- 4. Provide information and opportunities for children to learn valuable life skills to aid in alleviating poverty, and recognize that marriage is not the only option to end the cycle.***
- 5. Create and implement more effective and strict legislation to ensure police deal with such matters effectively and that legal repercussions are found in court.***

## **II. Child Abuse**

9. While the Zambian government abolished corporal punishment in schools in 2003, thus aligning itself with the United Nations Convention on the Rights of the Child,<sup>13</sup> such acts are

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<sup>8</sup> “ZAMBIA.” 2020. UNICEF.

<sup>9</sup> Mann and Fisher, 47

<sup>10</sup> “Zambian Government commitments to enacting the Child Code Bill at commemoration of Day of the African Child.” 2022. World Vision International. <https://www.wvi.org/stories/zambia/zambian-government-commitments-enacting-child-code-bill-commemoration-day-african>.

<sup>11</sup> “STRATEGIC PLAN UNFPA.” n.d. UNFPA Zambia |. Accessed June 29, 2022.

<https://zambia.unfpa.org/sites/default/files/pub-pdf/CHILD%20MARRIAGE%20STRATEGIC%20PLAN%20FINAL.pdf>.

<sup>12</sup> “ZAMBIA.” 2020. UNICEF.

<sup>13</sup> Maninga, Memory. 2017. “Mixed views on corporal punishment – Zambia Daily Mail.” Zambia Daily Mail. <http://www.daily-mail.co.zm/mixed-views-on-corporal-punishment/>.

still allowed to take place within homes, alternative care settings, and daycares.<sup>14</sup> Article 46 of the Juveniles Act 1956 stipulates: “Nothing in this section shall be construed as affecting the right of any parent, teacher or other person having the lawful control or charge of a juvenile to administer lawful punishment to him.”<sup>15</sup> This Act also undermines more recent legislation prohibiting corporal punishment, such as The Minimum Standards of Care for Child Care Facilities 2014 and the Education Act 2011 (art. 28, see under “Schools”).<sup>16</sup> Additionally, “reasonable chastisement” as an English common law defence is applicable under article 2 of the English Law (Extent of Application) (Amendment) Act 2011.<sup>17</sup>

10. The Zambia Police Service reported that 576 children were abused in the second quarter of 2021. This was a ten percent increase from reports from the first quarter of the same year.<sup>18</sup> It is also of note that many cases of child abuse go unreported, drastically underestimating the rates of such occurrences.

11. The *de facto* abuse of children remains a norm in Zambia. Contributing factors include traditional practices such as sexual initiation and child marriages, children’s role in the household economy; patriarchal values; poverty; and uneven power and economic relationships at school and in families. Four primary types of abuse have been identified: child labour, sexual abuse, corporal punishment, and traditional practices.

#### **Recommendations:**

- 6. *Implement and harmonise legislation recognizing an adult to be over the age of eighteen, regardless of their education status.***
- 7. *Repeal Article 46 of the Juveniles Act and prohibit corporal punishment and other cruel or degrading forms of punishment within homes and settings where adults have authority over children; additionally, ensure that stern legal repercussions are administered to those that violate the rights of a child.***
- 8. *Increase funding for campaigns aimed at dispelling traditional beliefs surrounding the sexual abuse of minors, including that sexual relations with a minor will aid in business growth or cure diseases such as HIV/AIDS.***
- 9. *Amplify education to parents and teachers on the ill and long-term effects child abuse may have on children.***
- 10. *Abolish child marriages and initiation ceremonies to lessen instances of sexual abuse against children.***
- 11. *Create and implement more effective and strict legislation to ensure police deal with such matters effectively and that legal repercussions are found in court.***

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<sup>14</sup> “Country report.” 2021. Country report. <http://www.endcorporalpunishment.org/wp-content/uploads/country-reports/Zambia.pdf>.

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

<sup>17</sup> “English Law (Extent of Application) (Amendment).” 2011. The English Law Act.pdf. [https://www.parliament.gov.zm/sites/default/files/documents/amendment\\_act/The%20English%20Law%20Act.pdf](https://www.parliament.gov.zm/sites/default/files/documents/amendment_act/The%20English%20Law%20Act.pdf).

<sup>18</sup> “Policy Brief: Ending Violence Against Children in Zambia - Zambia.” 2022. ReliefWeb. <https://reliefweb.int/report/zambia/policy-brief-ending-violence-against-children-zambia>.

**12. *The government should ensure that children have adequate living situations and access to health care.***

### **III. Teenage Pregnancy**

12. Zambia experiences high rates of teenage pregnancy. In a 2013-14 study, 28.5 percent of girls aged 15-19 reported that they had experienced one or multiple pregnancies.<sup>19</sup> The rate of teenage pregnancies is higher in rural areas. In the Northwest province, 40 percent of girls aged 15-19 reported having a pregnancy. Teenage pregnancies in Zambia continue to occur at high rates despite the Zambian government's decision to raise the marriage age to 21.<sup>20</sup>

13. Teenage pregnancies undermine girls' human rights and compromise their socio-economic potential. Teenage pregnancies force women to drop out of primary and/or secondary schools. Most new mothers do not return to their education, limiting their career options and opportunities.<sup>21</sup> Teenage pregnancies have lasting implications on the earning capabilities of young women, challenging the viability of financial and social independence in their adulthood.<sup>22</sup> Moreover, teenage pregnancies make women more vulnerable to several types of physical harm, especially unsafe abortions and risks associated with child-bearing.<sup>23</sup> To protect their rights and well-being, Zambia must do more to prevent teenage marriages.

14. The government of Zambia has a moral and legal obligation to prevent teenage pregnancies, therefore protecting young girls' safety and human rights. Zambia is party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which recognizes the urgency of reducing female drop-out rates and creating programmes and alternatives for women who have left school prematurely (10f).<sup>24</sup> In this sentiment, Zambia has allocated resources and rededicated itself to promoting young mothers' re-entry into school. Since Zambia's 1997 Re-entry Policy was codified, women have been able to return to school after their pregnancies. While this programme has achieved many successes, Zambia must do more to address some of the root issues behind teenage pregnancy—primarily a lack of social and economic opportunity for young women in the country.

15. Zambia has prioritized the procurement and distribution of contraceptive devices and family planning resources. It has both financially and legally committed to the use of contraception as a tool in combating teenage pregnancy. In 2020, the government of Zambia committed \$1.5 million for the procurement of contraceptive devices and streamlined the process for future funding.<sup>25</sup> However, access to family planning resources remains a challenge for many young women. Some providers report that they can only legally give contraception to women above the age of 16,<sup>26</sup> which is the legal age of consent.<sup>27</sup> One health

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<sup>19</sup> "ADOLESCENT PREGNANCY in ZAMBIA," 2017. <https://zambia.unfpa.org/sites/default/files/pub-pdf/Adolescent%20Pregnancy%20in%20Zambia.pdf>.

<sup>20</sup> "The Laws of Zambia,"

<https://www.parliament.gov.zm/sites/default/files/documents/acts/Marriage%20Act.pdf>.

<sup>21</sup> "ADOLESCENT PREGNANCY in ZAMBIA,"

<sup>22</sup> Ibid

<sup>23</sup> Ibid

<sup>24</sup> UN General Assembly, Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, United Nations, Treaty Series, vol. 1249, p. 13, <http://www.un.org/womenwatch/daw/cedaw/cedaw.htm>.

<sup>25</sup> "FP2020 Commitment 2020 Update Questionnaire ZAMBIA," 2020.

<sup>26</sup> CHIMFWEMBE, MOSES. "Times of Zambia | Is Age of Consent Chocking Teen Access to Contraceptives?" Times of Zambia, November 5, 2018. <https://www.times.co.zm/?p=105308>.

<sup>27</sup> Ageofconsent.net. "Zambia Age of Consent & Statutory Rape Laws," 2019. <https://www.ageofconsent.net/world/zambia>

care provider noted that many girls under the age of 16 are sexually active and not allowed to receive family planning resources. Other health care providers report that they are permitted to distribute family planning resources only if the girls admit to being “sexually active.”<sup>28</sup> Often, this admission occurs too late, when the girl is pregnant.

16. Comprehensive sexual education (CSE) classes have been introduced in Zambia’s education curriculum in the past ten years.<sup>29</sup> CSE classes are supported by the United Nations Population Fund (UNFPA) and seek to prevent teenage pregnancies, child marriages, STDs, and sexual abuse. The government of Zambia has been lauded for its CSE programme. Zambia must also continue to recognize boys’ role in teenage pregnancies. CSE classes must emphasize the importance of male contraceptives and work to change the conversation around teenage pregnancy to ensure that it is also viewed as a male problem.

#### **Recommendations:**

13. *Improve female enrolment in secondary schools by allocating more money to public schools.*
14. *Ensure that sexual and reproductive health programmes are in all schools starting in primary school.*
15. *Increase education and community intervention regarding the role of boys and men in their shared role surrounding teenage pregnancy.*
16. *Ensure that resources for family planning and mental health resources are provided to all women and girls who ask for it, regardless of age, parental consent, or sexually active status.*
17. *Amplify information and availability on the school re-entry policy to girls who become pregnant while still completing coursework.*
18. *Create and implement legislation allowing health care personnel and others to administer family planning resources to those under the Zambian age of consent.*
19. *Invest in entrepreneurship programming and practical education to promote financial self-sufficiency amongst young women.*

#### **IV. Gender-Based Violence (GBV)**

17. GBV in Zambia may be physical, mental, social, or economic abuse against a person due to their gender. It can also include threats, coercion, or the arbitrary deprivation of liberty in public and private life. Such violence results in physical, sexual, or psychological harm and suffering for the victim.<sup>30</sup> Particularly in Zambia, women experience violence in the forms of

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<sup>28</sup> Daka, Dingani, Acting Chavuma Health Director. Letter to Sam Gilbert. “Contraceptives for Young Women in Zambia.” Voice Message, July 7, 2022.

<sup>29</sup> United Nations Office of the Secretary-General Envoy on Youth. “Sexuality Education Offers Life-Saving Lessons to Zambia’s Young People – Office of the Secretary-General’s Envoy on Youth,” April 2017. <https://www.un.org/youthenvoy/2017/04/sexuality-education-offers-life-saving-lessons-zambias-young-people/#:~:text=Comprehensive%20sexuality%20education%20was%20introduced.>

<sup>30</sup> Zulu, Brenda. n.d. “Zambia: Fighting gender-based violence as fresh cases continue to emerge.” the United Nations. Accessed June 30, 2022. <https://www.un.org/africarenewal/news/zambia-fighting-gender-based-violence-fresh-cases-continue-emerge.>

physical abuse, sexual abuse and exploitation, rape, defilement (rape of a child), and incest.<sup>31</sup> Cultural practices such as virginity testing and “sexual cleansing” are also standard.<sup>32</sup>

18. Zambia has been urged in previous UPR cycles<sup>33</sup> to increase campaigns to end gender-based discrimination and implement the Anti-Gender Based Violence Act. Zambia has run numerous awareness-raising campaigns through the use of bus stickers in Lusaka, Ndola, and Livingstone and also celebrates the 16 Days of Activism against Gender-Based violence annually.<sup>34</sup> The Anti-Gender Based Violence Act was also passed in April of 2011, which established a fund to assist victims or survivors of GBV, established shelters to support victims or survivors, provided emergency monetary relief, and addressed harmful traditional practices.<sup>35</sup>

19. Even with the implementation of such campaigns and legislation, GBV remains a significant issue within Zambia. In 2021, 20,540 cases of GBV were reported, of which 107 were murders. 79.4 percent of GBV cases in Zambia involved women as the victim, and of the 5,301 of GBV involving child victims, 77.6 percent were against girls.<sup>36</sup> During the 2021 16 Days of Activism against GBV campaign, 793 cases of GBV were reported. This showed a 15.8 percent increase from cases reported during the 2020 campaign.<sup>37</sup>

20. It appears that the executive functionaries of government, such as the police, hospitals, and courts, are failing to fulfil their obligations insofar as GBV is concerned.<sup>38</sup>

### **Recommendations:**

- 20. *Develop training material for public sector workers that sensitises them to issues of GBV and empowers them to approach situations with an understanding of the broader social issue rather than just employing authoritative means.***
- 21. *Implement programmes raising awareness about the rights of GBV victims and access to justice. Further, initiate efforts to provide access to legal services for GBV victims.***
- 22. *Ensure information on the Anti-Gender-Based Violence Act and its contexts are readily available to those in need, including printing in all officially recognized regional languages.***
- 23. *Amplify GBV prevention programmes in communities and faith-based settings.***
- 24. *Facilitate opportunities for GBV survivors to improve their socioeconomic standing.***

### **V. Nutrition**

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<sup>31</sup> Ibid.

<sup>32</sup> Chidoori, Elizabeth. n.d. Putting Women First - Zambia's Anti Gender Based Violence Act of 2011. Accessed July 1, 2022. [https://au.int/sites/default/files/documents/31520-doc-putting\\_women\\_first\\_-\\_zambias\\_anti\\_gender\\_based\\_violence\\_act\\_of\\_2011\\_by\\_chidoori\\_rumbidzai\\_elizabeth.pdf](https://au.int/sites/default/files/documents/31520-doc-putting_women_first_-_zambias_anti_gender_based_violence_act_of_2011_by_chidoori_rumbidzai_elizabeth.pdf).

<sup>33</sup> Recommendation 129.21 (Spain), 131.100 (Canada)

<sup>34</sup> “Campaign against Gender-based Violence.” 2009. Global Database on Violence Against Women..

<sup>35</sup> Chidoori, Elizabeth. n.d.

<sup>36</sup> “ANNUAL GBV STATISTICS FOR 2021.” 2022. Zambia Police. <http://www.zambiapolice.gov.zm/index.php/112-news/390-gbv-data-2021>.

<sup>37</sup> Ibid.

<sup>38</sup> Sawlani, Samira, and sheree bega. 2021. “Zambia's women protest against gender-based violence - The Mail & Guardian.” Mail & Guardian. <https://mg.co.za/africa/2021-10-10-zambias-women-protest-against-gender-based-violence/>.

21. It is well established that a lack of nutrition can lead to stunting - the impaired growth of and development of children.<sup>39</sup> Stunting continues to be a significant problem in Zambia.

22. Although Zambia has shown progress in the reduction of malnutrition and stunting since the 2010 launch of the Scaling Up Nutrition (SUN) movement, the state maintains some of the highest rates of malnutrition and stunting in sub-Saharan Africa. Nutrition has been prioritized in several policies and plans, such as the National Food and Nutrition Policy (2006), the National Food and Nutrition Strategic Plan 2017-2021, and the National Health and Strategic Plan 2017-2021. Additionally, Zambia launched the 1,000 Most Critical Days Programme, which aims to prioritise the strengthening and expansion of interventions to fight stunting in children below the age of two.<sup>40</sup>

23. Other than physical side effects, malnutrition also affects brain development. Older children who suffer from stunting are less likely to attend school, thus compromising their development further. This places them at a higher risk of becoming victims of various forms of abuse, thus perpetuating the poverty cycle and making them vulnerable to the issues mentioned above. As such, malnutrition is a significant factor in perpetuating the cycle of abuse.

## **Recommendations**

25. *Establish an ad-hoc parliamentary committee to consider equitable fiscal distribution across the country to ensure adequate access to food and health resources.*
26. *Implement educational campaigns regarding the importance of nutrition and early childhood development.*
27. *Ensure all mothers and children have access to sufficient food sources during both the gestational period and the first 1000 days after birth.*
28. *Redouble efforts to sustain the 1000 Most Critical Days programme.*
29. *Improve health care for mothers and women of childbearing age by ensuring they are receiving iron and folate supplements (to prevent low birth weight in baby) during clinic visits; educating them on the importance of adequate nutrition during pregnancy, as well as educating them on the benefits of breastfeeding and the importance of breastfeeding for six months, continuing for two years in combination with adequate complement foods; encouraging women to attend antenatal appointments to screen for complications during pregnancy that could result in low birth weight babies and to provide with all necessary information.*
30. *Set up a system to adequately identify all low birth weight infants as they are born and refer them for specialized care and regular follow-up.*
31. *Regularly screen children under the age of five for malnutrition, specifically stunting, and educate parents on how to supplement meals to ensure the child achieves their catch-up growth.*

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<sup>39</sup> “Stunting in a nutshell.” 2015. WHO | World Health Organization.  
<https://www.who.int/news/item/19-11-2015-stunting-in-a-nutshell>.

<sup>40</sup> Ibid.



## **A Final Word**

24. It is evident that the issues listed within this report are intersectional, with the primary root leading to poverty. Poverty, as discussed, is the most significant driver of child marriage, teenage pregnancy, child abuse, GBV, and malnutrition. Each of these issues is exacerbated by the other. As such, the main issue of poverty must first be closely examined and remedied. Zambia must work to implement more entrepreneurial opportunities for women of all ages so that they may gain the skills necessary to navigate their way out of poverty. We believe that providing such opportunities will ensure widespread societal improvements, as each of these topics is so closely connected. This will also aid Zambia in realising the Sustainable Development Goals (SDGs).