



EXECUTIVE SUMMARY

Zambia*



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INTRODUCTION

Despite a notable rise in economic growth in Zambia over recent years, a majority of the population continue to live below the poverty line.¹ The United Nations Development Programme's (UNDP) Report for 2013 ranked Zambia 163 out of 186 countries surveyed on the Human Development Index.²

The high rate of poverty, lack of education, orphanhood, single parent households and families affected by the HIV/AIDS epidemic, create a dangerous environment for children and put their safety and development at great risk.³ Additionally, the practice of various traditions under Zambia's customary law increases children's vulnerability to abuse and commercial sexual exploitation.⁴

Child prostitution is the most common form of commercial sexual exploitation of children (CSEC) in Zambia.⁵ Prostitution is widespread in large cities and constitutes the country's most serious trafficking problem.⁶ While under the Zambian Penal Code the prostitution of children is prohibited and penalties of up to life imprisonment for perpetrators can be imposed,⁷ in practice the law is often not enforced and, as a result, child prostitution in Zambia is quite common.⁸ Many times it is the children who are charged and prosecuted under Zambian law and not the perpetrators.⁹

Zambia remains a source, transit and destination country for men, women and children subjected to forced labour and **trafficking for sexual purposes**.¹⁰ In 2007, a joint research study by the IPEC/ILO on child trafficking cited the demand for cheap labour and commercial exploitation of children as the two most frequent motives behind internal and cross-border trafficking of female children

in Zambia.¹¹ In addition, research identified that the majority of trafficking occurs within the country's borders, in such areas as Kapiri, Mposhi, Chirundu and Nakond,¹² and primarily affects orphans and street children, but can include children from wealthier families as well.¹³

Zambia has yet to include the Internet as a means to commit an offence in its national legislation, but it does criminalise **child pornography** in its law and can impose a sentence of imprisonment from fifteen years up to life imprisonment on those convicted.¹⁴ In 2007, the Zambian government launched the National Information and Communication Technology (ICT) Policy in response to cyber-crime and misuse of ICTs; however, there is no evidence to show that any emphasis was placed on pornography, especially pornography involving children.¹⁵

There is limited data on **sexual exploitation of children in travel and tourism** in Zambia, although the Zambian Chief Tourism Development Officer accepts that sexual exploitation of children in tourism is taking place in some parts of the country, but maintains that it is not widespread.¹⁶

The high rate of child marriage is another concern in Zambia. In 2011, Zambia was ranked 10th in the world among countries where child marriage was practiced.¹⁷ According to the UN Special Rapporteur on violence against women in 2011, approximately 50% of Zambian women were married by the age of 18 and more than one-quarter of girls and young women between the ages of 15 and 19 were bearing children.¹⁸

NATIONAL PLANS OF ACTION (NPAs)

Zambia has developed three National Plans of Action (NPAs) relevant to CSEC issues. The first was the *NPA for Children*, adopted by the government for the period 2009-2010. One of the main objectives of this NPA was to provide protection to all children, including the most vulnerable. It further set out a policy framework for the government to address child and youth issues and identified key priorities and strategies, as well as resource commitments.¹⁹ In 2011, Zambia launched the *National Action Plan (NAP) for the Elimination of the Worst Forms of Child Labour* with an aim to update its national legislation and comply with international obligations.²⁰ The NAP focuses primarily on

measures needed to eliminate the worst forms of child labour; the strengthening of coordination and coalition building; raising awareness of child labour and establishing monitoring and evaluation systems.²¹ With regard to trafficking in persons, in 2007 the Zambian Cabinet developed and approved the *National Action Plan to Combat Trafficking*. This NAP established a framework for the development and implementation of comprehensive interventions in the areas of trafficking prevention, law enforcement and victim assistance.²² Zambia's NPA to combat trafficking is due to expire in 2015.

COORDINATION AND COOPERATION

At the local and national levels, Zambia's child protection system is not well coordinated among ministries involved in the child protection system.²³ As a result, the ministries refer to different legislation and implement uncoordinated, and often duplicated, children's policies.²⁴ There have been several initiatives taken by the government and NGOs in order to improve, map and assess the child protection system of Zambia. For instance, in 2010, Zambia established a Technical Working Group in collaboration with UNICEF which helped to identify central roles and responsibilities of the main government agencies.²⁵ Another initiative was taken by the Child in Need Network (CHIN), which implemented a child protection and participation project in the Mansa and Chibombo districts in 2011.²⁶ This project aimed

at strengthening mechanisms for protecting children at the community level, as well as promoting child participation.²⁷

At the regional and international levels, Zambia hosted a three day Regional Conference in Lusaka on "Ending Trafficking and Commercial Sexual Exploitation of Women" in 2008.²⁸ The Conference gathered representatives from such countries as Botswana, Kenya, Malawi, Mozambique, Namibia, Nigeria, Rwanda, South Africa, Swaziland, Tanzania and Uganda.²⁹ This meeting was an opportunity for both organisations and survivors of commercial sexual exploitation to share their experiences and develop strategies to end the trafficking and commercial sexual exploitation of women and girls.³⁰

PREVENTION

Several awareness raising campaigns against CSEC were organised and carried out from 2010-2012. In November 2010, UNICEF, together with the UN Joint Programme on Human Trafficking, conducted a month-long multi-media campaign with the objective to raise awareness and sensitise communities on the trafficking problem in six Zambian provinces.³³ As a result of these activities, at least 10 children's coalitions were formed in 10

districts that continued the awareness-raising efforts on the issue of human trafficking in local communities.³⁴ Another campaign called "Break the Chain of Human Trafficking," was organised twice, in 2011 and 2012, and raised trafficking awareness in urban centres and rural areas.³⁵

Zambia actively participates and organises training and education programmes in collaboration with the UN Joint Programme

on Human Trafficking (UNJPHT), the International Organization for Migration, the International Labour Organization (ILO), UNICEF, and the European Commission-funded TACKLE Projects. For instance, in October 2012, Zambia, in partnership with UNJPHT, launched the Minimum Standard Guidelines on Protection of Victims of Trafficking.³⁶ The Guidelines, in accordance with the 2008 *Anti-Trafficking Act*, established the minimum care provisions for victims of trafficking.³⁷ By early 2013, the government had successfully distributed these Guidelines in its provinces and trained 148 service providers, including social welfare and immigration officials, on its provisions.³⁸

In the area of vulnerability reduction, the Zambian government introduced two social assistance programmes targeting children: the orphans and other vulnerable children (OVC) programme and the child grant scheme.³⁹

These programmes have been implemented in five of the most impoverished districts of Zambia.⁴⁰

With respect to deterrence measures, Zambia has not made any efforts to reduce the demand for commercial sex acts in recent years⁴¹ and has not yet implemented a coordinated or comprehensive strategy to reduce the incidence of human trafficking.⁴²

There has been a range of detailed assessments conducted on various manifestations of CSEC by the government and international organisations in recent years. One such assessment looked at the experience of 2019 sexually-exploited children aged 5-17 years from 15 districts across nine provinces and was able to reveal the existence of certain links between CSEC and different aspects of Zambian society.⁴³

PROTECTION

Zambia has ratified various international treaties regarding child protection, including the *UN Convention on the Rights of the Child (CRC)*, and the *ILO Convention on the Worst Forms of Child Labour*. It has signed, but not ratified, the *Optional Protocol on the sale of children, child prostitution and child pornography*. It acceded to the *UN Convention against Transnational Organized Crime* and the *UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking Protocol)*. At the regional level, Zambia has ratified the *African Charter on the Rights and Welfare of the Child*.

The legal situation regarding CSEC is complicated by the two co-existing legal systems: customary law and statutory law. The system of statutory and customary law is applied inconsistently, resulting in violations of the rights of vulnerable groups, especially children.⁴⁴ According to UNICEF, “customary law grants significantly fewer rights to women and girls than statutory law and is principally based on male power, authority and domination over women.”⁴⁵ The inconsistencies between statutory and customary law are important to recognise; even if Zambia’s government is able to bring its statutory legislation in line with the CRC and other international human rights instruments

concerning CSEC, it will have to address the issue under customary law as well.

Prostitution of children

Under Zambian legislation, prostitution is illegal and can be punishable by fifteen years of imprisonment.⁴⁶ Pursuant to Section 140 of the *Zambian Penal Code*, it is an offence to procure or attempt to procure a child to have unlawful carnal knowledge of the child,⁴⁷ to make the child a common prostitute,⁴⁸ or to make the child an inmate of or frequent a brothel.⁴⁹ This section has extraterritorial effect and makes it an offence to procure or attempt to procure a child whether the child’s destination is within Zambia or elsewhere. If convicted of an offence under this section, the offender is liable to imprisonment for a term of not less than twenty years and may be liable to life imprisonment.⁵⁰ Section 144(1) of the *Penal Code* further criminalises detention of children in a brothel or in any premises with intent that the child may be unlawfully and carnally known by any third person.⁵¹ Moreover, Section 147(1) makes a number of acts related to prostitution an offence including the living off earnings of the prostitution of another; the control, direction or influence of the movements of a prostitute for the purpose of gain; and the aiding, abetting or

compelling of a person's prostitution.⁵²

While Article 146(1)(b) of the *Penal Code* distinguishes between punishments for adults and punishments for children, this distinction does not comply with international standards. Children who become involved in prostitution are not always treated as victims; on the contrary, they become liable to community service or counselling as the court may determine.⁵³

Trafficking in children for sexual purposes

Zambia became a State Party to the Trafficking Protocol in 2005.⁵⁴ In an attempt to implement international obligations under the Trafficking Protocol, the Zambian government introduced the *Anti-Human Trafficking Act* in 2008, which defines a "child" as a person under the age of eighteen years. The Act criminalises human trafficking and prescribes penalties that range from 20 years to life imprisonment.⁵⁵ According to this law, however, the use of threat, force, intimidation, or other forms of coercion are required criteria in order for a child to be considered a sex trafficking victim,⁵⁶ which contradicts the Trafficking Protocol.

The *Anti-Human Trafficking Act* obligates Internet Service Providers (ISPs) to report information they discover on any forms of trafficking.⁵⁷ The failure to comply with this obligation makes an ISP liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both.⁵⁸

Child pornography/child sexual abuse materials

Child pornography is prohibited under Zambia's *Penal Code*. Any person who engages a child or other person in a pornographic performance, production of a pornographic film or other material, or in a pornographic activity of any nature, commits an offence and is liable, upon conviction, to a term of imprisonment of not less than fifteen years or

imprisonment for life.⁵⁹ Despite this specific legislation, "procurement" for pornography is not criminalised;⁶⁰ child pornography itself is not defined; the legislation does not address computer-facilitated offenses;⁶¹ and, unlike the *Anti-Human Trafficking Act*, ISP reporting is not mandatory.⁶²

Sexual exploitation of children in travel and tourism

Zambia does not have specific legislation addressing the sexual exploitation of children in travel and tourism; however, there are legal provisions relevant to this issue, including the laws on extraterritorial jurisdiction, extradition and dual criminality. Zambia's *Penal Code* has a general extra-territorial provision allowing courts to exercise jurisdiction over Zambian nationals for any unlawful act committed outside Zambia.⁶³ However, this law does not affect non-citizens and non-resident foreigners unless it is proven that a crime was committed partly within Zambia's jurisdiction.⁶⁴

Child protection units

Under the Child Protection Programme, the Ministry of Home Affairs established the Zambia Police Service (ZPS) Child Protection Unit (CPU), which is tasked with enforcing labour-related trafficking laws.⁶⁵ Specifically, the CPU's objectives are to identify and remove vulnerable children from the streets.⁶⁶ The ZPS Victim Support Unit (VSU) handles the enforcement of laws against trafficking, CSEC and/or use of children in illicit activities.⁶⁷ Furthermore, acting under the same Child Protection Programme, the Ministry of Community Development and Social Services (MCDSS) was able to put in place 23 District Child Protection Committees.⁶⁸ However, a lack of allocated resources has made it difficult for the Committees to raise public awareness and reach out to children in need.⁶⁹

Support services for children

The Zambian government faces significant challenges in the area of support services for children. According to a 2007 ILO study on

reintegration of child trafficking victims in Zambia, law enforcement agencies are rarely involved in the process of children returning home, partly due to the inadequate training of law enforcement officers on child trafficking issues.⁷⁰ The study also found that there is a high level of stigma associated with victims of child trafficking, making it harder for them to reintegrate into their communities.⁷¹

In 2008, UNICEF was able to highlight several factors that limit and hinder access to legal protection for CSEC victims such as: poor capacity of those responsible for enforcement; limited community, parental and child

awareness of their rights and mechanisms of protection; entrenched discriminatory attitudes of some police and judicial bodies; and limited access to legal aid.⁷² In this regard, UNICEF stated that efforts are needed strengthen the implementation of statutory law and improve services intended to support victims.⁷³

Training law enforcement personnel

While a few training courses on anti-trafficking issues are available for all law enforcement at the police training academy,⁷⁴ it is unclear how much, if any, of this training focuses on the trafficking of children for sexual purposes.

CHILD AND YOUTH PARTICIPATION

Although Zambia has adopted the National Child Policy, the National Youth Policy and the National Plan of Action for Children, no official policy exists that promotes awareness of, and respect for, children's views.⁷⁵ Children have little opportunity to express their opinions and/or to participate in decision making either in their households, schools or communities.⁷⁶

This is partly due to practices of upbringing and education that teach children to remain silent and show respect for adults through unquestionable compliance.⁷⁷ According to the UN Committee on the Rights of the Child, these traditional practices and attitudes limit the full implementation of Article 12 of the CRC.⁷⁸

PRIORITY ACTIONS REQUIRED

National plans and policies

Zambia should develop and implement an up to date *National Plan of Action (NPA) for Children*, which includes a comprehensive and detailed component on CSEC, addressing all manifestations. This NPA should be sufficiently resourced and maintain clear coordination and monitoring mechanisms. The government should also continue with the process of mapping organisations that work on child marriages issues and prioritise the development of a national strategy on child marriage, including addressing the role of customary law in this traditional practice.

Coordination and cooperation

The government should ensure coordination and cooperation among all Ministries involved in the child protection programme/system, the police, specialised civil society organisations and community and religious leaders, as well as deliver targeted services to children in street situations. It should also implement the findings of the Child Protection Mapping System by developing a Child Protection Policy. In addition, it should establish a database and data collection system on child protection, including the areas of child pornography, child prostitution and the sexual exploitation of children in travel and tourism.

Prevention

The Zambian government should collect and regularly update data, disaggregated by sex, age, ethnicity and other relevant characteristics. Furthermore, it should prioritise the refinement and harmonisation of customary and statutory laws of marriage. In particular, the age of consent to sex and parental consent to marriage should be raised to 18 years. Additionally, a greater emphasis should be made on the issues of child trafficking for sexual purposes, as well as an effort to include children in these campaigns. Above all, awareness raising activities on the topics of child pornography and child prostitution should be carried out.

Protection

In order to prevent contradictory and ineffective legislation on child protection, it is vital for Zambia to prioritise the harmonisation of its national legislation with the CRC. This includes establishing a definition of the child in accordance with Article 1 of the CRC. Zambia should also implement the 2008 *Anti-Trafficking Act* by ensuring the use of a broad definition of human trafficking that does not rely on evidence of movement, but rather focuses on exploitation. It should also amend the trafficking laws so

that force, fraud, or coercion is not required for cases involving children under the age of 18 to be considered sex trafficking crimes. The government should ratify the OPSC in order to provide effective and comprehensive protection to all its children, especially the most vulnerable.

Recovery and reintegration

The government should ensure that recovery and reintegration programmes are substituted for the criminalisation of children in prostitution.⁷⁹ It is also vital for the government to ensure that law enforcement officials are trained on how to handle cases related to CSEC, not just child trafficking, and that the necessary distinction in treatment is made between adult and child victims.

Child and youth participation

Zambia should develop a systematic approach to increase public awareness of the participation of children in matters affecting them. Moreover, it should finalise and implement the National Youth Council and National Children's Council to give children a platform from which they can share their views and opinions.

Endnotes

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