



THE GOVERNMENT OF THE REPUBLIC OF ZAMBIA

COMBINED

**FIRST, SECOND, THIRD, FOURTH, FIFTH, SIXTH AND
SEVENTH PERIODIC REPORT UNDER THE AFRICAN
CHARTER ON HUMAN AND PEOPLES' RIGHTS (2005-2019)**

AND

**INITIAL REPORT UNDER THE PROTOCOL TO THE AFRICAN
CHARTER ON THE RIGHTS OF WOMEN IN AFRICA**

TO THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

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ACRONYMS

AIDS	Acquired Immunodeficiency Syndrome
ARV	Anti-retroviral
COR	Commissioner of Refugees
CSOs	Civil Society Organisations
GDP	Gross Domestic Product
HIV	Human Immunodeficiency Virus
ILO	International Labour Organisation
NGOCC	Non-Governmental Organisation Coordinating Council
NGOs	Non-Governmental Organisations
NPA	National Prosecution Authority
PAGE	Programme for the Advancement of Girls' Education
PLEED	Programme for Legal Empowerment and Justice Enhanced Delivery
PWAS	Public Welfare Assistance Scheme
SADC	Southern African Development Community
STI	Sexually Transmitted Infection
TEVETA	Technical Education, Vocational and Entrepreneurship Training Authority
UNDP	United Nations Development Programme
UNFPA	United Nations Population Fund
UNHCR	United Nations High Commissioner for Refugees
UTH	University Teaching Hospital
UNZA	University of Zambia
WHO	World Health Organisation
ZAPD	Zambia Agency for Persons with Disabilities
ZDHS	Zambia Demographic Health Surveys


FOREWORD

I am pleased to present Zambia's combined first, second, third, fourth, fifth, sixth and seventh State report on the implementation of the African Charter on Human and Peoples' Rights and the initial report on the Protocol to the African Charter on the Rights of Women. The report covers the period 2005 to 2019 and provides for the status of the implementation of human rights in Zambia.

It's been widely recognised that the promotion and protection of human rights can contribute to viable peace and security, as well as, attainment of sustainable development. Therefore, building a strong foundation for human rights through commitment to the tenets of democracy, rule of law and good governance becomes essential for a peaceful and just society. Current global challenges such as the discrimination and inequalities, large movements of refugees and migrants, violent extremism and terrorism all require us to re-double our efforts in order to secure peace and security and attain sustainable development. The duty rests upon us, as a united front, in Africa, to work in solidarity and diligently in order to create an environment where human rights are promoted, protected and respected.

It is highly commendable that this report was prepared through a very participatory and inclusive process. Broad consultations were undertaken and the inputs from the various stakeholders have been incorporated into the report. Therefore, this report is factually true and a correct representation of the implementation of the rights stipulated in the African Charter on Human and Peoples' Rights and the Protocol to the African Charter on the Rights of Women.

I applaud the effort and hard work which went into the preparation of this report and thank all who participated in the process.



Mulambo H. Haimbe
MINISTER OF JUSTICE

EXECUTIVE SUMMARY

Zambia is a State party to the African Charter on Human and Peoples' Rights (the "*African Charter*") and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the "*Protocol*"). The State party ratified the African Charter on 10th January, 1984, and the Protocol on 2nd May, 2006.

The State party in line with its obligations under Article 62 of the African Charter presented its initial State report for the period covering 1986 to 2004 on 1st January, 2005. This report is the State party's combined first, second, third, fourth, fifth and sixth report on the African Charter and the initial report in line with Article 26 of the Protocol.

The report comprises parts A and B. Part A outlines the legislative and other measures that the State party has adopted to give effect to the rights enshrined in the African Charter. Part B is the initial report on the implementation of the Protocol that mandates State parties to indicate in their reports, legislative and other measures undertaken for the full realisation of rights recognised in the Protocol. The report also highlights the challenges that the State party is facing in implementing the African Charter and the Protocol.

This report is a collaborative effort of stakeholders drawn from various Government ministries, civil society, academia and the national human rights institution. The Ministry of Justice facilitated the preparation of Part A, whereas the Gender Division – Cabinet Office facilitated the preparation of Part B of the report.

PART A: AFRICAN CHARTER ON HUMAN AND PEOPLE'S RIGHTS

INTRODUCTION

1. The State party has made significant strides in the implementation of the rights contained in the African Charter. The State party ratified the African Charter on 10th January, 1984, and pursuant to its obligations under Article 62, submitted its initial State report for the period covering 1986 to 2004 on 1st January, 2005. The State party presented its report during the Commission's 38th Ordinary Session in Banjul, The Gambia between 16th and 30th May, 2007.
2. This part of the report is the State party's combined first, second, third, fourth, fifth, sixth and seventh reports on the African Charter and takes account of the measures Zambia has taken to implement it during the period covering 2005 to 2019.
3. The African Commission on Human and Peoples' Rights recommendations to the State party's initial report and the communications to the African Commission and Promotion Mission are also addressed in the report.

GENERAL FRAMEWORK WITHIN WHICH HUMAN RIGHTS ARE PROTECTED AND PROMOTED IN ZAMBIA

International and Regional Commitments

4. Since the last period of review, the State party has ratified and acceded to the following international instruments which are relevant to human rights:

Table 1: Summary of International and Regional Human Rights Instruments that Zambia has acceded to or ratified between 2005 and 2013

International Instruments	Date of Signature	Date of Ratification/Accession
Convention on the Rights of Persons with Disabilities (CRPD)	9 May 2008	1 February 2010
International Convention for the Protection of All Persons from Enforced Disappearance	27 September 2010	4 April 2011
United Nations Convention against Transnational Crime		24 April 2005
International Labour Organisation (ILO) Convention No. 81 – Labour Inspection Convention		23 December 2013
ILO Convention No. 129 – Labour Inspection (Agriculture) Convention		23 December 2013
ILO Convention No. 155 – Occupational Safety and Health Convention		23 December 2013
ILO Convention No. 187 – Promotional Framework for Occupational Safety and Health and Safety		23 December 2013
Regional and Sub-Regional Instruments	Date of Signature	Date of Ratification/Accession
Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa	3 August 2005	2 May 2006
African Charter on the Rights and Welfare of the Child	28 February 1992	2 December 2008
Convention for the Protection and Assistance of Internally Displaced Persons in Africa (the Kampala Convention)	23 October 2009	14 January 2011
African Charter on Democracy, Elections and Governance	31 December 2010	31 May 2011

5. The State party is a dualist State and as such, international instruments that it has acceded to or ratified require domestication. The Ratification of International Agreements Act No. 34 of 2016 provides, *inter alia*, for the procedure for ratification and domestication of international instruments.

Legislative Framework

6. Since the last report, the State party has made significant progress in promoting and protecting human rights for all through legal reforms. The Constitution of Zambia (Amendment) Act No. 2 of 2016, contains a number of progressive articles aimed at promoting and protecting fundamental human rights and freedoms. The Constitution upholds human rights of every person in the State party and equality amongst women and men as well as their right to freely participate in, determine and build a sustainable political, legal, economic and social order. For instance, Article 259 (1)(b) provides that where a person is empowered to make a recommendation or appointment to a public office, that person shall ensure that 50% of each gender is nominated or appointed from the total available position unless it is so impracticable to do so.
7. The State party held a national referendum alongside the general elections on 11th August, 2016, to amend and enhance Part III (the Bill of Rights) and repeal Article 79 of the Constitution. Article 79(3) of the Constitution provides that a bill for the alteration of Part III or Article 79 shall not be passed unless before the first reading of the bill in the National Assembly has been put to a National referendum with or without amendment by not less than 50% of persons entitled to be registered as voters for the purposes of Presidential and parliamentary elections.
8. The Bill for the alteration of Part III of the Constitution was made available to the public and disseminated at least two months before the referendum to allow citizens to make an informed decision as to whether or not they accepted the proposed amendments. Unfortunately, the referendum failed because it did not meet the required threshold of at least 50% of registered voters who should have voted on that question. Therefore, economic, social and cultural rights remain non-justiciable under the State party's law.
9. The State party continues to review its national laws in order to protect fundamental human rights and freedoms. Some of the laws that have been enacted are contained in Table 2 below:

Table 2: Summary of Key Legislation aimed at the Protection and Promotion of Human Rights

Law	Subject Matter
Anti-Gender Based Violence Act No. 1 of 2011	Provides the framework for the protection of victims of gender-based violence.
Persons with Disabilities Act No. 6 of 2012	Promotes the participation of persons with disabilities through equal opportunities in the civil, political, economic, social and cultural spheres and provides for mainstreaming of disability issues in national legislation, policies and strategies of sustainable development.
Gender Equity and Equality Act No. 22 of 2015	Aimed at achieving gender equity and equality between men and women in all spheres of life through the taking of specific measures and strategic decisions provided for in the Act.
Police Public Complaints Commission Act No. 18 of 2016	Provides for the membership, functions, operations and financial management of the Police-Public Complaints Commission (PPCC) as well as the procedures for initiation and investigation of complaints against police actions which the PPCC is mandated to handle.
Ratification of International Agreements Act No. 34 of 2016	Establishes the domestic framework for the ratification of international agreements and the domestication process of such agreements and any other related matters.
Refugees Act No. 1 of 2017	Provides for the recognition, protection and control of refugees including their rights and responsibilities. It also domesticates the United Nations Convention relating to the Status of Refugees, 1951 and its Protocol of 1967, and the Organisation of African Unity Convention Governing the Specific Aspects of Refugees Problems in Africa, 1969.
Citizenship Act No. 33 of 2016	Provides the procedure for acquisition (through birth or registration), deprivation and renunciation of citizenship of Zambia. It also makes provision for the acquisition of a dual citizenship subject to Article 39 of the Constitution.
Passport Act No. 28 of 2016	Provides for the vesting of powers and duties for the issuance of and control over, passports and travel documents to ensure freedom of movement. It also

	makes provision for the issuance of a passport or travel document to a stateless person who is not considered as a national by any State under the operation of its law to travel to a specified country on the direction of the Minister or for the purposes of exiting Zambia.
Education Act No. 23 of 2011	Regulates the provision of accessible, equitable and qualitative education and domesticates the Convention on the Rights of the Child in relation to education. It also prohibits the imposition or administration of corporal punishment or degrading or inhuman treatment on a learner or causing corporal punishment or degrading or inhuman treatment to be imposed or administered on a learner.
Penal Code Act Chapter 88	Establishes a Code of Criminal Law
Mental Health Act No. 6 of 2019	Provides for the promotion and protection of the rights of persons with mental illness, mental disorder, mental impairment or mental disability and gives effect to certain provisions of the United Nations Convention on the Rights of Persons with Disabilities.
Employment Code Act No. 3 of 2019	Regulates the employment of persons; prohibits discrimination at an undertaking and the employment of children and young persons in any type of employment or work, which by its nature or the circumstances, in which it is carried out constitutes a worst form of labour, <i>inter alia</i> .
National Health Insurance Act No. 2 of 2018	Provides for universal access to quality insured health care services.
Constituency Development Fund Act No. 11 of 2018	Provides for the management, disbursement, utilisation and accountability of the Constituency Development Fund.

Institutional Framework

10. A number of institutions play a significant role in the promotion and protection of human rights in the State party. For instance, the Judiciary plays a key role in safeguarding the fundamental human rights and freedoms of the people of Zambia. To that effect, Article 127 of the Constitution establishes the Constitutional Court which has original and final jurisdiction to hear matters relating to the interpretation of the Constitution.

11. Further, Article 236 of the Constitution establishes the Judicial Complaints Commission which enforces the code of conduct for judges and judicial officers. The Commission also hears complaints lodged against judges and judicial officers.
12. The Ministry responsible for Justice is mandated to facilitate the administration of justice, promote the observance of the rule of law and good governance and ensure the protection of human rights and freedoms in Zambia. As regards human rights, its primary responsibilities as per Government Gazette Notice No. 836 of 18th November, 2016 include domestication of International Treaties and Conventions, administration of legal aid, law revision and law reform. It is also charged with the responsibility of overseeing the work of the Council of Law Reporting, Judicial Complaints Commission, Legal Aid Board, NPA and Zambia Law Development Commission.
13. The Human Rights Commission is mandated to promote, protect, investigate and report on the observance of human rights and freedoms; take necessary steps to redress violations of human rights and freedoms from relevant authorities; engage in dispute resolution through negotiation, mediation or conciliation; carry out research on human rights and freedoms and conduct civic education on human rights and freedoms.
14. Other important institutions include: the Police Public Complaints Commission; the Office of the Public Protector; the Department of Resettlement; the Legal Aid Board; the NPA and the Judicial Complaints Commission.
15. The Parliamentary Committee on Legal Affairs, Human Rights, National Guidance, Gender Matters and Governance assists Parliament in playing its oversight role over the actions of the Executive, pertaining to, *inter alia*, human rights and good governance. Further, the Committee is tasked to study and report on the mandate, management and operations of the Ministry responsible for justice, Ministry responsible for gender and other Ministries that fall under the mandate of the Commission.
16. In 2014, a Legal and Justice Sector Reforms Commission was constituted with the mandate to carry out countrywide consultations on the review of the legal and justice sector.

CIVIL AND POLITICAL RIGHTS

ARTICLES 2 & 3: PROHIBITION OF DISCRIMINATION; RIGHT TO EQUALITY BEFORE THE LAW

Legislative Measures

17. Article 8 of the Constitution makes provision for equity, equality and non-discrimination as some of the core national values and principles which inform the interpretation of the Constitution, the enactment and interpretation of laws, and the development and implementation of State policy.
18. Articles 11 and 23 of the Constitution guarantee the right to equality and contain a strict prohibition against discrimination on the grounds of race, tribe, sex, place of origin, marital status, political opinions, colour or creed. Any law or conduct is considered discriminatory where it entails affording different treatment to different persons on the grounds listed above. Article 266 of the Constitution defines discrimination as 'directly or indirectly treating a person differently on the basis of that person's birth, race, sex, origin, religion, conscience, culture, belief, language, tribe, pregnancy, health, marital status, ethnic, social and economic status.'
19. Under Article 118(2) of the Constitution, one of the principles of judicial authority is that justice shall be done to all, without discrimination. Article 118(3) provides that traditional dispute resolution mechanisms, such as the local court, shall not contravene the Bill of Rights, be inconsistent with other provisions of the Constitution or other written law, or be repugnant to justice and morality.
20. Articles 253(1)(a) and 255(k) of the Constitution provide for principles that govern the use of natural resources which include equitable access to land and associated resources and the promotion of equitable access to environmental resources, respectively.
21. Article 259(1)(b) of the Constitution provides that there should be 50% representation of each gender in nominations or appointments to public office, unless it is not practicable to do so. Further, Article 259(1)(c) provides for equitable representation of the youth and persons with disabilities where they qualify for appointment or nomination. Overall, such appointments and

nominations should reflect the regional diversity of the people of Zambia in accordance with Article 259(2). Significantly, the public service is guided by principles such as impartiality, fairness and equality as stipulated in Article 173(1)(c) of the Constitution.

22. The Persons with Disabilities Act No. 6 of 2012 was enacted to repeal and replace the Persons with Disabilities Act of 1996 and domesticated the Convention on the Rights of Persons with Disabilities. The aim of the Act is to promote and ensure the participation of persons with disabilities in all economic, social, civil, political and cultural spheres of activity by providing such persons with equal opportunities with other citizens. Section 40 of the Act seeks to ensure that people with disabilities access, on an equal basis with others, the physical environment, transportation, information and communications and other facilities and services provided to the public.
23. The Gender Equity and Equality Act No. 22 of 2015 is aimed at achieving substantive equality amongst men and women in Zambia. The Act provides for the establishment of the Gender Equity and Equality Commission as well as its functions and powers. It has domesticated the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), the Maputo Protocol and the SADC Protocol on Gender and Development.
24. The Employment Code Act No. 3 of 2019 aims to regulate the employment of persons. Section 5 of the Act prohibits discrimination in the occupation or employment sector based on grounds of colour, nationality, tribe or place of origin, language, race, social origin, region, belief, conscience political or other opinion, sex, gender, pregnancy, marital status, ethnicity, family responsibility, disability, status, health, culture or economic grounds.
25. The Citizen's Economic Empowerment Act No. 9 of 2006 was enacted to among other things, promote gender equality in accessing, owning, managing, controlling and exploiting economic resources and to promote the employment of both gender by removing structural and discriminatory constraints that hinder any particular gender from employment opportunities and in so doing, ensure equitable income distribution.

Policies and Programmes

26. Vision 2030 is a long-term planning instrument which sets out how the State party intends to achieve its goal of becoming a middle-income country by the year 2030. By 2030, Zambians, aspire to live in a strong and dynamic middle-income industrial nation that provides opportunities for improving the well being of all, embodying values of socioeconomic justice, underpinned by the principles of: (i) gender responsive sustainable development; (ii) democracy; (iii) respect for human rights; (iv) good traditional and family values; (v) positive attitude towards work; (vi) peaceful coexistence and (vii) private-public partnerships.
27. The Seventh National Development Plan (7NDP) 2017-2021 is the State party's Plan for development. It has five development outcomes, the third of which is aimed at reducing developmental inequalities, focusing on addressing the inequalities in development between the rural and the urban areas and gender inequalities. The 7NDP also focuses on interventions that support poor households that have the capacity for self-sustenance through livelihood empowerment programmes that will enable them graduate and enter the mainstream economic sectors. Specifically, the 7NDP aims to:
 - (a) reduce all forms of inequality;
 - (b) promote a well-nourished population free of all forms of malnutrition, capable of contributing to economic growth and diversification;
 - (c) improve the general welfare of poor and vulnerable households; and
 - (d) promote livelihoods and empowerment.
28. The State party launched the National Policy on Disability in 2015. The objective of the policy is to ensure that persons with disabilities can live decent and productive lives without any barriers.
29. The revised National Gender Policy was launched in 2014 and is aimed at strengthening the capacity of the State party to mainstream gender in the legal, political, economic, social and cultural spheres so that both women and men can benefit equally from the development process. Further, the Policy provides a framework for ensuring that all sectoral policies, programmes, plans, projects

and the national budget are gender responsive. It envisages the participation of both men and women in the development process at all levels in order to ensure sustainable development and attainment of equality between the sexes.

30. The National Youth Policy was launched in 2015. The Policy provides for equal opportunities and the equitable distribution of resources, programmes and services aimed at empowering the youth. The policy promotes an environment of equal access to socio-economic and employment opportunities commensurate with the ability, potential and needs of all youth groups.
31. The National Child Policy was first launched in 2006 to ensure that children's rights are enforced in order to safeguard and uphold their well-being. The Policy was revised in 2015, to address developmental and welfare issues affecting children such as the impact of growing household poverty, HIV/AIDS and violence, abuse and exploitation on child survival, and child protection.
32. National Social Protection Policy was launched in 2014. The Policy seeks to contribute to the well being of the citizenry by ensuring that the vulnerable people have sufficient income security to meet basic needs and protection from worst impact of risks and shocks. The Policy promotes gender equality, social solidarity and contributes to the empowerment of poor people in communities. The Policy is, therefore, the State party's resolve and instrument to protect and promote the rights of the people in Zambia, especially the poor and vulnerable at individual, family and community levels and thereby contributing to national development.
33. The Revised National Employment and Labour Market Policy of 2019 seeks to create an enabling environment for mainstreaming gender, disability, climate change and national values and principles in the employment and labour sector. Among other objectives, the Policy seeks to reduce under employment especially in rural areas and among women, youth and persons with disabilities, and increase participation of women, youths and persons with disabilities in the labour market.

Judicial Measures

33. Article 127 of the Constitution established the Constitutional Court whose mandate is to hear and determine matters relating to the interpretation of the Constitution. The Court, *inter alia*, also hears matters relating to the violation or contravention of the Constitution.

The State party has implemented measures to eliminate impediments to women accessing justice especially Gender Based Violence victims. The measures include:

- (a) development of simplified Rules of Court for the mode of commencement of actions and procedures under the Anti-Gender Based Violence Act No 1 of 2011;and
 - (b) establishment of the gender based violence fast track Court to expedite the disposal of cases and create a conducive environment to protect the victims from interacting with the perpetrators during court session.
34. Article 120 of the Constitution has also established a Family and Children's Division. It has jurisdiction to hear matters relating to child custody, maintenance of children and spouses, property settlement disputes arising from the general administration of estates, property sharing to beneficiaries and also adoption of children. .

Institutional Measures

36. The Human Rights Commission is a national human rights institution established pursuant to Article 230 of the Constitution. The Commission has the mandate of ensuring that the right to equity, equality and non-discrimination enshrined in the Bill of Rights are upheld and protected through the investigation and remedying of human rights violations.
37. The Zambia Agency for Persons with Disabilities (ZAPD) is a statutory body established under the Persons with Disabilities Act No. 6 of 2012 This Act also established the National Trust Fund for Persons with Disabilities. Section 14(1) outlines the various functions of ZAPD including taking any appropriate measures in consultation with relevant State institutions, organisations of persons with disabilities and other civil society organisations to eliminate discrimination on the basis of disability by any person, organisation or private enterprise.
38. The State party established the Citizen's Economic Empowerment Commission (CEEC) under the Citizen's Economic Empowerment Act No. 9 of 2006 to substantially increase the meaningful participation of targeted citizens including citizens influenced, citizens empowered and citizens owned companies in the

economy. The institution's core mandate is to promote broad based and equitable empowerment of citizens that are or have been marginalised or disadvantaged and whose access to economic resources and development capacity has been constrained due to various factors such as race, sex, educational background, status and disability.

39. To further eradicate gender discrimination, the Gender Division has been placed under Cabinet Office as of September, 2021, within the Office of the President to serve as the national gender machinery in Zambia and to implement gender equality commitments.

Challenges

40. The State party has a dual legal system which consists of statutory and customary law. Despite the protection in Article 1(1) of the Constitution, most rural communities have not been adequately exposed to human rights awareness-raising programmes that confront the cultural and traditional norms that perpetuate discrimination against women, children, persons living with HIV/AIDS, orphans, widows and persons with disabilities. Therefore, some practices under customary law continue to create and sustain avenues for discrimination against women and other vulnerable groups.

ARTICLE 4: THE RIGHT TO LIFE AND PERSONAL INTEGRITY

The Constitution protects the right to life and personal integrity.

Legislative Measures

41. Article 12(1) of the Constitution provides that a person shall not be deprived of his life intentionally except in the execution of the sentence of a court in respect of a criminal offence under the law in Zambia of which he has been convicted. Nonetheless, sections 43, 200 and 294(2) of the Penal Code, provide for the mandatory death penalty for the offences of murder, aggravated robbery and treason, respectively. However, the State party has not executed the death penalty sentence as there has been a *de facto moratorium* in that no execution has been carried out in the country since 27th January, 1997.
42. Article 97 of the Constitution provides for the Prerogative of Mercy. Article 97(1) provides that the President has the power to, on the advice of the Advisory Committee, conditionally or unconditionally, pardon a person convicted of an offence, substitute a less severe form of punishment imposed on a person by a court or remit the whole or part of a fine, penalty or forfeiture. Articles 97(2)

provides that a person who is sentenced to death may request the President, either directly or through a representative, for a pardon or commutation of the sentence.

43. Sections 152 and 153 of the Penal Code prohibit intentional procured abortions. However, the Termination of Pregnancy Act Cap 297 of the laws of Zambia provides for instances under which abortions may be legally procured.

Judicial Measures

44. There are no measures to report on as there have been no reports of deprivation of life without due process of the law.

Administrative Measures

45. The State party has conducted sensitisation meetings with communities on the Termination of Pregnancy Act, and has further conducted trainings for clinicians on the termination of pregnancy and the standards and guidelines for reducing unsafe abortions, morbidity and mortality in Zambia.

Challenges

46. In August 2016, the national referendum was held alongside the general elections in order to amend Article 79 and Part III of the Constitution. The amendment was sought in order to enhance citizens civil and political rights, economic, social and cultural rights, environmental rights and other social rights including the right to life. However, the national referendum was not successful due to the fact that the threshold required to validate the results was not met.

ARTICLE 5: RIGHT TO DIGNITY, PROHIBITION OF TORTURE AND SLAVERY

Legislative Measures

47. Article 15 of the Constitution prohibits subjecting a person to torture or to inhuman or degrading punishment. Further, Article 8 (1) (d) provides for human dignity as one of the national values and principles.
48. The Prisons Act Chapter 97 of the Laws of Zambia in part VI makes it an offence for any member of the Service to commit any act of violence against a prisoner. The Act was amended in 2004 by the deletion of the provisions on corporal punishment. Further, sections 123 and 125 of the Act provide for

Judges and Magistrates to visit and inspect prisons as well as listen to prisoner's complaints regarding their stay in prison.

49. Section 28 of the Education Act No. 23 of 2011 provides that a teacher, employee or other person at an educational institution shall not impose or administer corporal punishment or degrading or inhuman treatment on a learner or cause such punishment or treatment to be imposed or administered on a learner.
50. Section 83(1) of the Employment Code Act No. 3 of 2019 prohibits the employment of children and young persons in any type of employment or work, which by its nature or the circumstances, in which it is carried out constitutes a worst form of labour.
51. Anti-Human Trafficking Act No. 11 of 2008 domesticates the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children. The Act establishes a Committee on Human Trafficking, centres for victims and the Human Trafficking Fund.

Administrative Measures

52. The Zambia Correctional Service sensitises members of staff on aspects of prisoners' human rights from the perspective of national legislation and international human rights instruments. Further, the Zambia Police Service and Zambia Correctional Service Colleges have incorporated human rights education as part of training for police officers as well as prison warders. In particular, the training focuses on interrogation methods, rights of suspects, treatment of persons in custody and guidelines on the use of force (including the use of firearms). Officers from the Drug Enforcement and Anti-Corruption Commissions are also trained on human rights.
53. The Human Rights Commission has unlimited access to prisons and investigates cases of violence against prisoners reported to the Commission. It also conducts regular monitoring of detention centres to monitor and assess the conditions under which the detainees are kept.
54. The State party has put in place measures to decongest overcrowded prisons and correctional facilities across the country which include expansion of existing facilities and construction of new ones.

55. Below are the Correctional Centres that were constructed during the period under review:-

S/No	NAME OF THE CORRECTIONAL CENTRE	HOLDING CAPACITY
1	Luwingu	150
2	Kalabo	150
3	Monze	150
4	Mwembeshi Maximum	600
5	Kamfinsa	600

56. The Zambia Correctional Service partnered with several NGOs to expand HIV/AIDS testing in prisons across the country. However, HIV/AIDS prevalence in prisons and correctional facilities remains extremely high (27% compared to 13% for the general population). The State party, has established health posts within a number of prison facilities to facilitate prisoner's access to health care services . It has also created mobile hospital facilities for a number of prisoners in the country including Mwembeshi, Kamfinsa, Kabwe, and Chipata correctional facilities. Anti-retroviral treatment has also been made available to inmates infected with HIV/AIDS. Further, the Chainama East Correctional Hospital in Lusaka continues to provide psychiatric care to prisoners.
57. During the period under review, the Zambia Correctional Service has constructed and upgraded some clinics to first level hospitals. A total of 24 health facilities were constructed in all the 10 provinces. The Zambia Correctional Service also constructed and operationalised 4 mini hospitals at the following Correctional Facilities : Livingstone Central, Chipata, Kabwe Medium and Lusaka Central. The said four mini hospitals have well established laboratories for Tuberculosis screening, live testing, CD 4 count, chemical analyzer, among other things.
58. The efforts by the State party through the provision of professional health care services, hygienic sanitary and adequate water reticulation and other basic life requisites are all aimed at improving the living conditions of all inmates in places of detention and thereby upholding their human rights.
59. The State party formulated the National Action Plan (2012-2015) to combat trafficking in persons, with the aim of bringing together all key stakeholders involved in the response to the fight against trafficking in persons. One of the

- objectives of the Action Plan was to conduct research to establish the nature, extent and drivers of internal trafficking for domestic work in the State party.
60. The State party has been providing training for law enforcement and judicial officers on human trafficking to strengthen anti-trafficking law enforcement efforts.
 61. The State party collaborates with cooperating partners such as International Organisation for Migration and United Nations Office on Drugs and Crime to build capacity among law enforcement officers on how to detect, investigate and prosecute all human trafficking related cases.
 62. The State party maintains a database for monitoring and recording human trafficking cases. It also maintains partnerships with other countries in the region such as Zimbabwe and South Africa to regularly coordinate anti-human trafficking efforts.
 63. The State party through the Ministry responsible for community development and social services launched an awareness-raising campaign called 'Safe Migration: My Right, My Responsibility.' The campaign is primarily aimed at building the capacity of stakeholders in border districts prone to human trafficking namely, Chipata, Livingstone, Chililabombwe, Nakonde, and Sesheke to assist in the identification of trafficking victims. The State party has raised awareness on human trafficking issues through various community radio stations.

Challenges

64. There is no comprehensive legislation that holistically deals with cases of torture . However, the State party is working towards filling this legislative gap through the development of an Anti-Torture Bill which will criminalise all acts of torture and other cruel, inhuman and degrading treatment, provide various protections for victims of torture as well as compensation, rehabilitation and restitution for torture victims and establish an Anti-Torture Fund.
65. The State party has been facing budgetary constraints, thereby hampering its ability to effectively combat human trafficking.
66. Overcrowding in prisons and correctional facilities is mainly as a result of inadequate infrastructure. Between 2008 and 2014, for instance, prison capacity was at 5,500 but the number of prisoners in custody was over 16,000. Prison capacity increased to 8,150 in 2017 but during the same year, prisons

accommodated more than 21,000 inmates. In 2018, the capacity increased to 9,150, while the population of inmates increased to 22,500. As at December, 2019 whilst the capacity remains at 9,150, the average population of inmates stands at 22,700 in accordance with the Zambia Correctional Service Report of 2019.

Judicial Measures

67. In 2015, the State party investigated 13 cases of human trafficking. Of these 13 cases, 9 were prosecuted (compared to only 4 that were prosecuted in 2014) and 5 of these prosecutions resulted in convictions.

ARTICLE 6: RIGHT TO LIBERTY AND SECURITY OF THE PERSON

Legislative Measures

68. Article 13 provides for the right to personal liberty subject to certain exceptions. Nonetheless, in circumstances where liberty has been deprived, the Constitution still guarantees respect for human dignity and protection from inhumane treatment to all, including accused persons.
69. The Constitution and other legislation generally prohibit arbitrary arrest and detention. Article 13(4) of the Constitution states that any person who is unlawfully arrested or detained by any other person shall be entitled to compensation thereof.
70. Articles 13(2) and (3) of the Constitution provides for the rights of arrested or detained persons as follows:
- (a) the right to be informed promptly, in a language that the person understands, of the reason for the arrest or detention; 13.2
 - (b) the right to be brought without undue delay before a court; and if any person arrested or detained is not tried within a reasonable time, then, without prejudice to any further proceedings that may be brought against him, he shall be released either unconditionally or upon reasonable conditions, including in particular such conditions as are reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial.; 13.3

71. Section 25 of the Immigration and Deportation Act No. 18 of 2010 gives power to immigration officers to detain suspected prohibited immigrants for not more than 14 days. This is a safeguard against arbitrary arrest.
72. The Criminal Procedure Code Chapter 88 of the Laws of Zambia provides for bail in case of detention. The accused can only be granted bail upon providing a sufficient surety or sureties. Bail is not authorised in cases of murder, aggravated robbery, and violations of narcotics laws. Any bail inquiry must be conducted impartially, judicially, and in accordance with the law.

ARTICLE 7: RIGHT TO A FAIR TRIAL

Legislative Measures

73. The State party has made strides at domesticating the norms and standards set by the African Charter with regard to access to justice. The right to fair hearing is guaranteed under Article 18(1) of the Constitution. It states that 'if any person is charged with a criminal offence, then, unless the charge is withdrawn, the case shall be afforded a fair hearing within a reasonable time by an independent and impartial court established by law.'
74. Article 18 (2) of the Constitution states that every person who is charged with a criminal offence:
- (a) Shall be presumed to be innocent until he is proved or has pleaded guilty;
 - (b) Shall be informed as soon as reasonably practical in a language that he understands and in detail of the nature of the offence charged;
 - (c) Shall be given adequate time and facilities for the preparation of his defence;
 - (d) Shall unless legal aid is granted be permitted to defend himself before the court in person or at his own expense by a legal representative of his own choice; and
 - (e) Shall be afforded facilities to examine in person or by his legal representative the witnesses called by the prosecution before the court and to secure the attendance of witnesses to testify on his behalf on the same conditions as those applying to witnesses called by the prosecution; and

- (f) Shall be permitted to have without payment the assistance of an interpreter if he cannot understand the language used at the trial of the charge.
75. Article 18 (4) of the Constitution states that no person shall be held to be guilty of a criminal offence on account of any act or omission that did not at the time it took place constitute such an offence and no penalty shall be imposed for any criminal offence that is severer in degree or description than the maximum penalty that might have been imposed for that offence at the time it was committed.
76. Article 18(8) of the Constitution further states that no person shall be convicted of a criminal offence unless that offence is defined and the penalty is prescribed in a written law.
77. According to Article 118(2) of the Constitution, the principles of judicial authority that guide the courts are:
- (a) justice shall be done to all, without discrimination;
 - (b) justice shall not be delayed;
 - (c) adequate compensation shall be awarded, where payable;
 - (d) alternative forms of dispute resolution, including traditional dispute resolution mechanisms, shall be promoted;
 - (e) justice shall be administered without undue regard to procedural technicalities; and
 - (f) the values and principles of the Constitution shall be protected and promoted.
78. Superior Courts (Number of Judges) Act No. 9 of 2016 has increased the number of judges to 105 so as to enhance speedy delivery of judgments and ensure access to justice.

Administrative Measures

79. The State party, in the quest to enhance the administration of justice, has:

- (a) increased the number of lawyers trained at the Zambia Institute of Advanced Legal Education (ZIALE) following the liberalisation of university education as a number of private universities have started offering law degrees;
 - (b) increased the number of paralegals trained and introduced paralegal desks in correctional facilities and at selected Police Stations;
 - (c) introduced advanced training for Prosecutors at ZIALE;
 - (d) increased the number of advocates at the Ministry of Justice; and
 - (e) Introduced electronic filing of cases.
80. The State party has also set up a committee in the Judiciary to deal with backlog of cases and encourages mediation to expedite the disposal of civil cases.

Institutional Measures

81. The Judiciary has made steady progress in enhancing the right to a fair trial. Measures put in place include the establishment of more courts from 2016 to date; these include the Constitutional Court and the Court of Appeal.
82. The High Court has been expanded by creating specialised divisions such as the Industrial Relations Division, Family and Children's Division, and the Commercial Court. Further, the Gender Based Violence Fast Track Courts and the Road Transport and Safety Agency Fast Track Courts have been established in the Subordinate Courts.

Policies and Programmes

83. The State party has embarked on the following policies and programmes:
- (a) The National Legal Aid Policy which provides for compulsory legal representation to indigent persons; and
 - (b) PLEED Programme which is meant to help inmates have legal representation.

Challenges

84. The State party has, during the period under review, experienced the following challenges in the exercise of the right to a fair trial:

- (a) Few practicing lawyers to help in case management and inadequate number of lawyers to provide legal aid service to the poor;
- (b) Inadequate infrastructure such as court rooms; and
- (c) High cost attached to court circuiting.

ARTICLE 8: FREEDOM OF CONSCIENCE AND RELIGION

- 85. The predominant religion in the State party is Christianity. The rest of the population comprises Muslims, Hindus, Buddhists, Jews and Atheists, *inter alia*.
- 86. There is a high tolerance level for different religions in the State party. Citizens are given a wide breadth to choose a faith, evangelize, build places of worship and carry out pastoral, fundraising and catechetical work.

Legislative Measures

- 87. Article 4(3) of the Constitution of Zambia states that Zambia is a multi-religious nation. Article 19(1) guarantees the freedom of conscience and states that that no person shall be hindered in the enjoyment of his freedom of conscience.
- 88. Article 19(3) of the Constitution also gives religious communities or denominations the freedom to provide religious instruction for persons of that particular community or denomination in the course of any education provided by the community or denomination or from establishing and maintaining institutions to provide social services for such persons.
- 89. Article 19(4) of the Constitution of Zambia prohibits the compelling of a person to take any oath which is contrary to his religion or belief or to take any oath in a manner which is contrary to his religion or belief.
- 90. To further protect the freedom of conscience, Chapter XIV of the Penal Code Act criminalise acts or conduct infringing on a person's enjoyment of religion. The offences, among other things, include: insult to a religion; disturbing religious assemblies; trespassing and uttering words with the intent to wound religious feelings.

91. The Societies Act sets out requirements for religious groups to register with the Registrar of Societies. Religious groups and faith-based organisations can apply for a certificate of exemption from paying taxes, which is normally applicable to non-profit making organizations.

Institutional Measures

On 27th October, 2016, the Ministry responsible for national guidance and religious affairs was created. The mandate of the Ministry is to promote national values and actualise the declaration of Zambia as a Christian nation while upholding the freedom of conscience for social transformation and sustainable development. The Ministry portfolio functions are interdenominational dialogue, national guidance, national values, principles, and ethics, public religious celebrations, preservation of religious sites and religious affairs.

ARTICLE 9: FREEDOM OF INFORMATION AND EXPRESSION

Legislative Measures

92. Article 20 of the Constitution provides for the protection of freedom of expression. Article 20(1) allows a person to receive ideas and information without interference whether the communication is to the public or an individual or class of persons. Article 20(2) provides that, subject to the provisions of the Constitution, no law shall make any provision that derogates from freedom of the press. However, this freedom is not absolute. Article 20(3) makes provision for the exceptions.
93. Articles 50 and 60 of the Constitution give political parties access to the media. Article 50 provides that a political party and a candidate contesting an election shall have access to the media, especially during election campaigns. Article 60(1)(a) provides that a political party has the right to disseminate information on social and economic programmes of a national character and of its political ideology.
94. The Information and Communication Technologies Act No. 15 of 2009 regulates all electronic communication technologies and protects the rights and interests of service providers and consumers.

95. The State party established the Independent Broadcasting Authority through the enactment of the Independent Broadcasting Authority Act No. 26 of 2010 to regulate the broadcasting industry in Zambia.
96. The Statistics Act No. 13 of 2018 establishes an integrated National Statistical System which provides for the mechanisms for coordination, collection, management and dissemination of statistics and promotes the use of statistical data and information at individual, institutional, national and international levels.

Judicial Measures

97. In the case of ***Chipenzi and others Vs. The People HPR/03/2014 [2014] ZMHC 112***, the accused were arrested and charged with publishing information on allegedly secret police recruitment. Following their trial in December 2014, the Court acquitted them on the basis that section 67 of the Penal Code, which makes the publication of false news with intent to cause fear and alarm an offence, was unconstitutional and could not be reasonably justifiable in a democratic society.
98. In the case of ***The People v Kasonkomona HPA/53/2014 [2015] ZMHC 22***, a human rights and HIV/Activist was arrested by police in April 2013 and was charged with an offence of being idle and disorderly and soliciting for an immoral purpose contrary to section 178(g) of the Penal Code Act. The Court acquitted him of these charges on the basis that his right to free speech was protected by the Constitution under Article 20.

Administrative Measures

99. The State party has introduced the use of sign language interpretation at important state events and programmes as part of the national television broadcaster to enhance access to information for the deaf.
100. The State party makes use of the media to disseminate and explain policy issues in a simplified manner and, in some instances, provides translated versions of legislation and policy in local languages.
101. The Zambia Information Communication Technology Authority (ZICTA) disseminates information and promotes the participation of the public in the provision of electronic communication services. It also promotes the interests of consumers, and other users of information and electronic communications services.

102. The State party encourages the establishment of media houses. Currently, there are 147 radio stations across the country. Further, the State party has 58 licensed Television stations out of which 28 are operational. The opening of the airwaves facilitated the flow of information, diverse and critical views and opinions. Through community radio stations, citizens are able to freely debate and discuss issues affecting the country.

Proportional active users for mobile phones in the State party as of 2015, in urban areas was 68.3% and rural areas 38.8% of the population. This has also enhanced access to information to citizens. The State party's development blueprint, Vision 2030, underscores the importance of improved access to information in order to promote citizen's participation in socio-economic development. Through Vision 2030, the State party envisages a well-informed citizenry that fully participates in national development by 2030. The State party intends to achieve this through, for example, providing a conducive policy, legal and institutional framework for the development of the media and increased outreach.

Challenges

103. Access to information in local languages is limited. The information and communication infrastructure is inadequate to meet the information needs of the whole population. This has led to poor and limited radio and television coverage, thereby denying information to most people living in the rural parts of the State party. Inaccessible roads in rural areas and non-existence of telecommunication services in some areas have equally affected distribution and outreach of print media products, such as newspapers and magazines.
104. The cumbersome nature of the process of getting public information, especially financial, discourages the public from seeking vital information such as budgets, mostly in rural areas. The State party attempts to facilitate better access to certain information through the websites of various Government ministries and departments.
105. Persons living with disabilities are marginalised when it comes to accessing information, particularly the blind, as very little information is published in braille format.

ARTICLES 10 AND 11: FREEDOM OF ASSOCIATION AND ASSEMBLY

Legislative Measures

106. Article 21(1) of the Constitution guarantees every person the freedom to associate and assemble. However, the freedom is not absolute and it may be interfered with or derogated from under limited circumstances. The circumstances under which the freedom can be derogated from are circumscribed by law.
107. Sections 5 of the Industrial and Labour Relations Act Chapter 269 of the Laws of Zambia provides that every employee has the right to form and join trade unions.
108. The Public Order Act Chapter 113 of the Laws of Zambia regulates the right to freedom of assembly. Other laws that promote the rights to associate and assemble include, among others, the Societies Act and Non-Governmental Organisations' Act No. 16 of 2009 which provide for the registration of political parties, churches or religious groups, clubs, organisations and associations.
109. The Public Order Bill, 2019 is currently before the National Assembly for enactment. The objects of the bill are to provide for the enjoyment of the right of freedom of Assembly and Association; regulate the conduct of public gatherings for the preservation of public order, public safety and public health; and to repeal and replace the Public Order Act enacted in 1955 among other things.(We propose deletion)

Judicial Measures

110. In the case of ***Christine Mulundika and others vs the People SCZ Judgement No. 25 of 1995***, the Supreme Court held that a provision in the Public Order Act which requires a person to obtain a permit from the Police in order to hold a gathering or assemble, which application could be denied by the Police was unconstitutional and did not fit into a democratic society. The Supreme Court held that section 5(4) of the Act was null and void.
111. In the case of ***Resident Doctors Association of Zambia Vs the Attorney General (SCZ) Judgment No. 12 of 2003***, the Supreme Court held that rights to free speech and freedom to assemble are not only fundamental, but central to the concept and ideal of democracy. Courts as final arbiters, when interpreting the Constitution and the laws made thereunder, which confer the freedoms, need to adopt an interpretation, which does not negate the rights. Most

jurisdictions adopt a generous and purposive construction of human rights instruments, so as to confer on a person the full measure in the enjoyment of the rights. The Police flagrantly violated the Public Order Act and consequently, infringed the petitioners' rights as enshrined in Articles 20 and 21 of the Constitution.

Institutional Measures

112. The Zambia Police Service is an institution that implements and administers the Public Order Act. Police officers at various Police commands have delegated powers to implement the Act.

The Ministry responsible for home affairs through the Registrar of Societies implements the Societies Act while the Ministry responsible for community development and social services implements the Non-Governmental Organisations' Act. The Non-governmental Organisations' Registration Board established under section 5 of the Non-Governmental Organisations' Act has the mandate to register local and international NGO's to carry out their activities in the State party hence promoting the right to assembly and association.

Policy

113. The Non-Governmental Organisations' Policy of 2018 aims to promote an effective, efficient and well coordinated NGO sector that contributes to sustainable national development.

ARTICLE 12: FREEDOM OF MOVEMENT

Legislative Measures

114. Article 22 of the Constitution provides that no citizen shall be deprived of his freedom of movement and for the purposes of this article freedom of movement means; the right to move freely through Zambia, the right to reside in any part of Zambia, and the right to leave Zambia and to return to Zambia
115. The State party respects, protects and promotes the freedom of movement. However, this freedom is not absolute in that it is subject to restrictions which are spelt out in Article 22(2) and (3).

Judicial Measures

There are no judicial measures to report on.

ARTICLE 13: RIGHT TO PARTICIPATE IN GOVERNMENT

Legislative Measures

116. The Constitution provides for the right to participate freely in Government through free and fair and periodic elections based on universal and equal suffrage. The State party holds regular free and fair elections. The franchise to register as a voter and vote in an election is extended to all citizens who have attained the age of eighteen. Political parties operate freely and individuals are free to join a political party of their choice and run for elections. The Constitution has made extensive changes to the electoral system allowing citizens to freely participate in Government.
117. Article 43(2)(b) of the Constitution provides that a citizen shall register as a voter and vote, if eligible, in national and local Government elections and referenda.
118. Article 45(1) of the Constitution provides that electoral systems of Zambia shall ensure that citizens are free to exercise their political rights, universal adult suffrage based on the equality of a vote, fair representation of the various interest groups in society, and gender equity in the National Assembly or Council.
119. Article 60 of the Constitution provides that a political party shall have a national character, promote and uphold unity and shall not be founded on a religious, linguistic, racial, ethnic, tribe, gender, sectorial or provincial basis or engage in propaganda based on any of these.
120. Article 100 of the Constitution provides that a person qualifies to be nominated as a presidential candidate if that person is a citizen by birth or descent. Before the amendment of the Constitution, the requirement was that both parents of a Presidential candidate are Zambians by birth or descent. It also discriminated against independent candidates to run for presidency as it required that the candidate must be a member of, or sponsored by, a political party. To the contrary, the Constitution requires that the candidate be supported by at least

100 registered voters from each province without belonging to a political party. This has expanded participation of independent candidates to run as president.

121. Article 88 (1) of the Constitution gives citizens the right to petition the National Assembly to initiate the enactment, amendment or repeal of legislation. Further, citizens can also participate in the activities of the National Assembly by commenting on a deliberation, statement or decision of the National Assembly. Article 89 of the Constitution provides for public and media involvement in the sittings of the National Assembly or parliamentary committees except when there are justifiable reasons for the exclusion.
122. Public participation in the policy-making process is one of the values and principles that guide the operations of public service as provided in Article 173(1) (d) of the Constitution. Article 151(1)(b) of the Constitution establishes a system of Local Government where people's participation in democratic governance is promoted.
123. On the protection of natural resources, Article 256 of the Constitution imposes a duty on citizens to maintain a clean, safe and healthy environment, to ensure ecologically sustainable development and use of natural resources. Article 257 encourages public participation in the management of natural resources.
124. The Electoral Process Act No. 35 of 2016 provides the overarching framework for the administration of voting processes in Zambia, dispute resolution mechanisms before, during and post elections and sets out voter registration processes. The Act also has a Code of Conduct under section 110 which is aimed at guiding and regulating the behaviour of all election stakeholders including candidates, agents, monitors, election officials, the media and law enforcement agencies.

Judicial Measures

125. In the case of ***Brotherton N.O. v Electoral Commission of Zambia (ECZ) (2011/HP/0818) [2011] ZMHC 32***, the Zambia Federation of Disability Organisations (ZAFOD) sued the Electoral Commission of Zambia on the grounds that a failure to provide reasonable accommodation to persons with disabilities at most polling stations during the 2006 national elections amounted to unfair discrimination. The High Court agreed and directed the Commission to adopt measures by the next election to ensure the equal participation of persons with disabilities in exercising the right to vote. In the 2016 elections, braille was

provided for persons with vision impairment and were enabled to vote. This was a progressive step in ensuring participation of persons with disabilities in elections.

Further, in the case of ***Godfrey Malembeka (suing in his capacity as Executive Director of Prisons Care and Counselling Association) v Attorney General and Electoral Commission of Zambia (2016/CC/0013) Selected Judgment No. 34 of 2017***, the Constitutional Court held that sections 9 (1) (e) and 47 of the Electoral Process Act which barred inmates in lawful custody from exercising the right to vote contravene Article 46 of the Constitution. It was further held that Article 46 of the Constitution has extended the right to vote to persons in lawful custody, or whose freedom is restricted under a written law in force in Zambia who qualify to register as voters and to vote as per constitutional provision. Therefore, persons in lawful custody and those whose freedom of movement is restricted under a written law are entitled to vote in future elections.

Administrative Measures

126. Since the *Brotherton* decision, the following administrative measures have been introduced: Firstly, braille ballot paper voting template (jacket) and ballot paper jackets have been printed and made available at every polling stream or station. Secondly, a number of polling stations have been made more accessible to persons with disabilities to ensure their reasonable accommodation including measures such as the installation of ramps, the creation of priority voting and provision of assistance to voters with casting ballots.
127. Since 2016, persons with disabilities have been included as educators in the Voter Education Programme.
128. The State party has developed guidelines for policy development designed to enhance public participation.

Policies and Programmes

129. The Government adopted the Decentralisation Policy in 2004 to introduce a devolved and democratically elected system of governance characterised by an open, predictable and transparent decision-making process as enshrined in Article 109 of the Constitution. It was envisaged that this would strengthen public participation in public affairs and governance.

130. The State party collaborates with NGOs in programmes that support marginalised groups' participation in governance and decision-making. The programmes include, but are not limited to, sensitisation of political parties and other structures to promote and implement the 50/50 parity in line with the benchmarks set by the SADC Protocol on Gender and Development.

Institutional Measures

131. The Electoral Commission of Zambia is the institution that has the mandate to ensure that citizens participate in governance through elections and are involved extensively in voter education activities. The Commission works in conjunction and consultation with ZAPD and other organisations for persons with disabilities to ensure that persons with disabilities have greater access to electoral services and information in order for them to participate meaningfully in the electoral process.

Challenges

132. Inadequate funding to the Electoral Commission of Zambia to effectively carry out its mandate has had several spill over effects on the ability of citizens to exercise their right to vote. In particular, the inadequately funded programmes include continuous voter registration and continuous voter education. Voter registration does not take place on a continuous basis as is provided for in the law due to resource constraints. Despite this challenge, the State party endeavours to improve funding to the relevant institutions in order to enable and encourage public participation in public affairs and governance.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

ARTICLE 14: RIGHT TO PROPERTY

Land Administration

Legislative Measures

133. As indicated in the initial report, the Constitution, Lands Act Chapter 184 of the Laws of Zambia, Lands and Deeds Registry Act Chapter 185 of the Laws of Zambia, Lands Acquisition Act Chapter 189 of the Laws of Zambia, Intestate Succession Act Chapter 59 of the Laws of Zambia and Wills and Administration of Testate Estates Act Chapter 60 of the Laws of Zambia guarantee the right to

property. The State party's Constitution recognizes property rights and protects all individuals against the deprivation of property. The Constitution also provides for the continuation of the customary and private (leasehold) tenure systems. Statutory land is administered in accordance with written laws. Customary land is administered by traditional authorities based on unwritten and localised customary laws.

134. Compulsory acquisition of land is regulated by Article 16(1) of the Constitution and section 3 of the Lands Acquisition Act. Article 16 (1) of the Constitution provides that property of any description shall not be compulsorily taken possession of, and interest in or right over property of any description shall not be compulsorily acquired, unless by or under the authority of an Act of Parliament which provides for payment of adequate compensation for the property or interest or right to be taken possession of or acquired.
135. Section 3 of the Lands Acquisition Act provides that the President may, whenever he is of the opinion that it is desirable or expedient in the interest of the Republic, compulsorily acquire any property of any description. Section 10 permits the President to give the person deprived of the land, in lieu of or in addition to any compensation, a grant of other land not exceeding the value of the land acquired.
136. The Zambia Development Agency Act No. 11 of 2006 ensures investors' property rights are respected. Property can be owned individually, jointly in undivided shares, or by an entity such as a company, close corporation or trust, or similar entity registered outside Zambia. The Act provides for legal protection and facilitates acquisition and disposition of all property rights such as land, buildings and mortgages.
137. The Urban and Regional Planning Act No. 3 of 2015 empowers district councils to be agents of the Ministry of Lands with the responsibility of planning for the land in the districts such as zoning. In addition, the Act, among other things, provides for: development, planning and administration principles; standards and requirements for urban and regional planning processes and systems; a framework for administering and managing urban and regional planning for the Republic.

Policies and Programmes

138. Vision 2030 reaffirms the State party's commitment to ensuring that the people of Zambia enjoy the right to property. It is aimed at the equitable distribution of wealth in a society whose members have property rights.
139. The 7NDP reiterates the State party's commitment to protecting property rights and gives particular attention to land reforms as land remains a critical factor of production and provides a basis for national development.
140. Proposed reforms to the framework protecting property rights include: review of the National Land Policy; review of the Land and Deeds Registry Act; land audit; enhancement of the land management information system; development of a land e-governance system and implementation of the country-wide land titling programme. The reforms are expected to provide security of tenure.
141. At present, the State party does not have a land policy and is in the process of drafting one. The proposed policy is expected to strengthen land tenure security, particularly among the rural and urban poor and minimise the occurrence of land grabbing and corruption and enhance equitable access.

Institutional Measures

142. The Ministry responsible for lands is mandated to administer and manage land and includes the Lands Department, Lands and Deeds Department, Lands Tribunal, Survey Department, and Survey Control Board.
143. The State party's 117 district councils have authority to administer land within their districts and are responsible for land-use planning, in coordination with the Town and Country Planning Department as guided by the Urban and Regional Planning Act. The district councils process applications for leases of state land and evaluate requests for the conversion of customary land to state land.
144. Customary land is administered by local traditional leaders. The State party has 73 tribes, 241 chiefs, 43 senior chiefs, and 4 paramount chiefs. The chiefs and village-level headmen have authority under statutory law and customary law to oversee customary land and protect their community's culture and welfare. Traditional leaders grant occupancy and use-rights, oversee transfers of land, regulate common-pool resources (opening and closing grazing areas, cutting of thatch) and adjudicate land disputes.

Right to Housing

Legislative Measures

145. The Urban and Regional Planning Act provides a framework for planning, grant of planning permission and control of development in the main cities and towns in the country.

Policies

146. The National Housing Policy of 2012 provides the framework for sustainable housing development and a mechanism for ensuring that limited resources are put to their optimum use and thus also addressing poverty alleviation. According to the policy, 'housing is a basic social need after food and clothing and, as with the other basic needs, adequate housing is a pre-requisite to national socio-economic development. Its inadequacy can have a severe impact on the environment, health and the general well-being of communities'.

Institutional measures

147. The Ministry responsible for housing and infrastructure development is responsible for policy creation and supervision while planning and regulation of actual development at city level is the responsibility of local authorities.

Challenges

148. The implementation of the National Housing Policy has been extremely slow and the State party is currently faced with a critical shortage of housing and an enormous housing backlog dating back to the time before independence. In light of the foregoing, however, the State party is still committed to improving the situation of inadequate housing by improving access to finance, improving the land delivery system, increasing investment in low cost housing and providing services such as water supply, sanitation, roads, storm water drainage, electricity and others including clinics and public schools.

Intellectual Property Rights

Legislative Measures

149. Laws on intellectual property rights include the Industrial Designs Act, Patents Act, and Trademarks Act Chapter 401 of the Laws of Zambia.
150. As regards traditional knowledge, cultural expressions and expressions of folklore, the Protection of Traditional Knowledge, Genetic Resources and Expressions of Folklore Act No.16 of 2016 was passed for the protection of these aspects of intellectual property. These will include traditional medicine together with cultural heritage. Folklore and traditional songs will also be protected so that the indigenous owners can benefit from their works.

Policies

151. The National Intellectual Property Policy of 2009 aims at providing guidance and policy direction on matters related to intellectual property administration in Zambia.

Institutional Measures

152. The Ministry responsible for commerce, trade and industry is mandated to implement the National Intellectual Property Policy. The Ministry also implements industrial property laws covering patents, trademarks and industrial designs through its implementing body, the Patents and Companies Registration Agency (PACRA).
153. The Zambia Police Service Intellectual Property Unit enforces laws relating to intellectual property rights.

Challenges

154. Despite the existence of various legislation, there is limited awareness of intellectual property issues amongst the general populace. This has contributed to providing low levels of innovation and entrepreneurship that the State party has been enduring.

ARTICLE 15: RIGHT TO WORK, EQUITABLE AND SATISFACTORY CONDITIONS OF WORK AND EQUAL PAY FOR WORK

The Right to Work

Legislative Measures

155. The Industrial and Labour Relations Act, Technical Education, Vocational and Entrepreneurship Training (TEVET) Act No. 13 of 1998 and the Employment Code Act provide for the rights of workers including redress through the Industrial Relations Court. All Zambians have the right to form and join independent unions, conduct legal strikes, and bargain collectively, except for defence and security and certain other categories of workers,.
156. On the elimination of forced labour, the Anti-Human Trafficking Act makes provision for the prohibition, prevention and prosecution of human trafficking.
157. The Employment Code Act provides for, among others, the protection of wages of employees and welfare of employees. Section 5(4) of the Act provides that an employer shall pay an employee equal wages for work of equal value.

Policies and Programmes

158. Vision 2030 and the 7NDP provide for employment creation as one of the national central goals through which the State party aspires to deliver a prosperous middle-income economy that offers decent employment opportunities for the people of Zambia by harnessing opportunities for economic diversification and growth targeting key growth sectors.
159. The State party developed and is implementing the National Employment and Labour Market Policy, 2019 whose overall objective is to support inclusive economic growth and development through promotion of gainful and decent work in all sectors of the economy. The TEVET Policy, 1996 and HIV/AIDS Policy are also some of the policies that the State party has developed and is implementing to address labour rights.
160. With regard to social security, the State party has undertaken reforms aimed at establishing a comprehensive and responsive social protection system that would:
 - (a) adequately address the plight of workers, retirees, pensioners and beneficiaries;
 - (b) address the long term financial sustainability of the social security system;
 - (c) create a three tier pension system;

- (d) introduce new benefits; and
 - (e) provide legal framework to facilitate transition from informal to formal economy.
161. The State party recently established a three tier guarantee system to provide a minimum income replacement Ratio (IRR) of 60%. The three tier guarantee systems are Mandatory National Basic Scheme, Mandatory Occupational Pension Schemes (MOPS) and Voluntary Private Pension Scheme.

Other Measures

162. The importance of the right to work is affirmed by the fact that the State party ratified 48 ILO Conventions. These provide safeguards for just and favourable conditions of work and decent working conditions for the State party's labour-force and are important in guiding the country towards formulating and implementing labour related legislation and policies.

Child Labour

Legislative Measures

163. The provisions relating to minimum age for admission to employment for children are stipulated under sections 81, 82 and 83 of the Employment Code Act. The Act provides for, among other things, regulation of the employment of children and young persons.
164. The provisions relating to child labour, child prostitution or use of children for pornographic performances or use of children for debt bondage or serfdom have been provided for in the Penal Code.

Policies, Programmes and Other Measures

165. The National Policy on Child Labour of 2011 was adopted to guide the State party and other stakeholders on how best to tackle the problem of child labour. The policy provides a holistic framework that addresses the problem of child labour in the State party. It outlines the causes and factors that are contributing to child labour in Zambia and also outlines the effects that child labour has on

the development of the child and the nation at large. It further outlines the State party's current interventions and stipulates strategies that the State party intends to institute to address the problem of children's premature entry into the labour market. The policy stipulates the institutional and legal frameworks including the funding mechanism to be used to support implementation of the policy.

166. The National Employment and Labour Market Policy of 2019, the Child Welfare Policy of 2015 and the National Youth Policy of 2015 work towards the elimination of child labour.

Administrative Measures

167. The State party, in collaboration with partners such as ILO, carries out various activities to eliminate child labour. These include: promoting child development through the provision of education and other training alternatives for children, removal of children from certain forms of labour, rehabilitation of victims of child labour through counselling as well as provision of basic necessities of life.
168. The State party avails resources to key ministries such as the Ministry responsible education, Ministry responsible for health, Ministry responsible for community development and social services and Ministry responsible for youth, sport and child development to enhance the implementation of activities aimed at addressing the problem of child labour.
169. The State party works with NGO's, Community Based Organisations, and Faith-Based Organisations in order to build a formidable force against child labour.

Challenges

170. Child labour remains prevalent in the State party, particularly in sectors like mining and quarrying, transport and communication, construction, agriculture, manufacturing and trade. Child labour robs children of their health, education and even their lives. The State party is cognizant of the negative impact of child labour on the country's socio-economic development prospects and that it works against the provision of decent and dignified work.

Discrimination

Legislative Measures

171. Section 108 of the Industrial and Labour Relations Act prohibits discrimination in employment. The Act provides that no employer shall terminate the services of an employee or impose any other penalty or disadvantage on any employee, on grounds of race, sex, marital status, religion, political opinion or affiliation, tribal extraction or status of the employee.
172. Section 37 of the Persons with Disabilities Act commits to promote access to employment and social protection for persons with disabilities.
173. Section 31 of the Gender Equity and Equality Act reaffirms the right of a woman to equal access to employment opportunities; equal remuneration, benefits and treatment and not to be discriminated against in the employment sector.

Satisfactory Conditions of Employment

Legislative Measures

174. The Factories Act Chapter 441 of the Laws of Zambia provides for general rules and regulations that every employer in the State party has to abide by such as a clean working environment, safe clothing, head gear and footwear, adequate ventilation, prevention of overcrowding, first aid, lighting, sanitary facilities, basic training on safety and health, fire extinguishers and hydrants. Employers in sectors such as mining, construction, transport, hospitality and manufacturing are mandated by law to provide 'special' or tailor-made health and safety facilities to their employees.
175. Section 7 of the Employment Code Act prohibits casual work. According to the Act, it is illegal for any employer to engage an employee on a casual basis for any job that is of a permanent nature. The objective of the law is to address the lack of employment security which characterises most employment relationships at the workplace and to eliminate gross abuse and infringement of workers' rights and strengthen labour administration in the State party in line with the decent work agenda.
176. The Ionising Radiation Protection Act No. 16 of 2005 establishes the Radiation Protection Authority and defines its functions and powers. It provides, *inter alia*, the protection of public workers and the environment from hazards arising from the use of devices or materials capable of producing ionising radiation.

177. In the mining sector, occupational health and safety remain a critical area of concern. The Mines and Minerals Development Act No. 11 of 2015 provides for safety, health and environmental protection in mining operations.
178. The Occupational Health and Safety Act No. 36 of 2010 establishes the Occupational Health and Safety Institute, provides for the health, safety and welfare of persons at work and protection of persons, other than persons at work, against risks to health or safety arising from, or in connection with, the activities of persons at work.

ARTICLE 16: RIGHT TO THE HIGHEST ATTAINABLE STANDARD OF HEALTH

179. The State party has taken a number of actions and developed strategies aimed at reducing inequalities and improving access to healthcare. The legal, policy and institutional frameworks are modelled towards ensuring equitable access to primary health care services for all persons regardless of their social, cultural, ethnic, economic and geographical status. The State party's health sector is undergoing transformation and has shifted from having a curative-based approach to a health promotion and disease prevention approach.

Legislative Measures

180. The Public Health Act Chapter 295 of the Laws of Zambia addresses a wide range of issues and health challenges in the country including prevention and suppression of diseases and regulates all matters connected with public health.
181. The National Health Insurance Act No. 2 of 2018 provides for sound financing for the national health system and universal access to quality insured health care services.
182. The Food Safety Act No. 7 of 2019 provides for the protection of the public against health hazards and fraud in the manufacture, sale and use of food. It also provides for a streamlined process for regulatory clearances for regulatory health requirements for food and establishes the Food Safety Co-ordinating Committee and the National Food Laboratory.

183. The Health Professions Act No. 24 of 2009 makes provision for the registration of health practitioners and regulates their professional conduct. The legislation further provides for the licensing of health facilities, accreditation of health care services provided by health facilities and the recognition and approval of training programmes for health practitioners.
184. The Nurses and Midwives Act No. 10 of 2019 provides for the regulation of education and training of nurses and midwives, regulation of the practice and professional conduct of nurses and midwives and the licensing of nursing and midwifery facilities.
185. The Medicines and Allied Substances Act No. 3 of 2013 makes provision for the registration and regulation of pharmacies, health shops and agro-veterinary shops and for the registration and regulation of medicines and allied substances.
186. The Solid Waste Regulation and Management Act No. 20 of 2018 provides for the sustainable regulation and management of solid waste; general and self-service solid waste services; incorporation of solid waste management companies and define their statutory functions; licensing and functions of solid waste service providers operators and self-service solid waste providers and provide for their functions; regulation, operation, maintenance and construction of landfills and other disposal facilities; setting and approval of tariffs for management of solid waste and provision of solid waste services.
187. The National Health Research Act No. 2 of 2013 provides for a regulatory framework for the development, regulation, financing and coordination of health research and ensure the development of consistent health research standards and guidelines for ethically sound health research.
188. The Persons with Disabilities Act seeks to promote persons with disabilities' access to health services and health rehabilitation by providing the same range, quality and standard of free or affordable health care services as provided to other persons..
189. The National Water and Sanitation Act No. 28 of 1997 regulates water supply and sanitation. It provides that the Ministry responsible for local government has the responsibility of providing services of water supply to rural areas. The Ministry is also responsible for ensuring that water resources are effectively developed and managed to contribute to poverty reduction through increased

access to safe water and food security for low income rural population. To improve irregularities in the water and sanitation sector, the National Water and Sanitation Council (NWASCO) is in the process of revising the Water Supply and Sanitation Act in order to strengthen the implementation of the water supply and sanitation programmes in the country.

190. The Water Resources Management Act No. 21 of 2011 provides for the comprehensive regulation of the water sector and establishes the Water Resources Management Authority and defines its functions and powers. The Act provides for: the management, development, conservation, protection and preservation of the water resource and its ecosystems; the equitable, reasonable and sustainable utilisation of the water resource; ensures the right to draw or take water for domestic and non-commercial purposes and that poor and vulnerable members of the society have an adequate and sustainable source of water free from any charges.

Policies and Programmes

191. Vision 2030 envisions equitable access to quality health care for all by 2030. The Vision is anchored on ensuring a healthy population in which the incidence of major diseases such as tuberculosis and malaria is reduced and the HIV/AIDS pandemic is brought under control with a progressively reduced incidence rate. Further, the target for water supply in the State party, as set out in Vision 2030, is that there should be 100 per cent access to safe water supply for all users. Access to water and sanitation services by all segments of the population is a key component of all aspects of sustainable development.
192. The National School Health and Nutrition Policy of 2006 aims to promote and improve nutrition status of learners in order to enhance and sustain their physical, social and mental well-being, promote and maintain the health status of learners through the initiation of effective health promoting activities, provide health and nutrition education and promotion of activities at all levels of the education system, promote and sustain a safe and healthy learning environment.
193. The National Food & Nutrition Policy of 2006 was developed to achieve sustainable food and nutrition security and to eliminate all forms of malnutrition in order to have a well-nourished and healthy population that can effectively contribute to national economic development.

194. The State party is cognisant of the need for a concerted Multi sectoral and decentralised response to the HIV pandemic, hence the development of a series of the national strategic frameworks to guide the response. The current National AIDS Strategic Framework (NASF) 2017 - 2021 is designed to provide adequate space and opportunities for communities, civil society, private sector, development partners (bilateral and multi-lateral agencies) and Government institutions to actively participate in the implementation of evidence-based HIV/AIDS programmes, depending on their mandates and comparative advantages.
195. The National Health Policy of 2012 sets clear directions for the development of the health sector in Zambia. The overarching objective of the Policy is to reduce the burden of disease, maternal and infant mortality and increase life expectancy through the provision of a continuum of quality effective health care services as close to the family as possible in a competent, clean and caring manner.
196. The roadmap for Accelerating Reduction of Maternal, New-born and Child Mortality (MNCH) 2013-2016 focuses on actions to accelerate progress towards high and equitable coverage of priority maternal, newborn, and child health interventions along the continuum of care within the five phases of the lifecycle: (a) the pre-pregnancy and adolescent reproductive health needs, (b) care and well-being during pregnancy, (c) the phase of child birth, (d) postnatal phase and its special needs, (e) the needs of the newborn period, and (f) the childhood phase. It is also premised on the recognition of the critical role that communities and community based structures can play in providing care to families who do not have easy access to a health facility and in ensuring behaviour change for improved MNCH survival practices.
197. The E-Health Strategy (2017-2021) is designed to guide and mainstream the use of information and Communication Technologies (ICT's) in health and other related sectors and provides clear operational guidelines that will drive growth and transformation through the effective use of ICT's.
198. 197. The 2017-2021 National Health Sector Strategic Plan (NHSP) provides guidance on all health interventions in the health sector. The Plan details the direction the health sector will take, the achievements and outcomes that will be attained and the interventions that will be undertaken to make sure these targets are met.

199. The National Water Policy was formulated in 1994 and revised in 2010, taking into account current international developments. The Policy integrates cross-cutting issues such as gender, HIV/AIDS and climate change and introduces modern principles of water resources management. It also seeks to address cross-sectoral interests in the water sector with particular focus on water resources planning, development, management and utilisation. The Policy embraces modern principles of water resources management and endeavours to deal with the daunting challenges of poverty reduction. In addition, it takes into account other interventions, such as the National Decentralisation Policy.
200. In 2003, the State party introduced the National Rural Water Supply and Sanitation Programme to increase and improve rural communities' access to water and sanitation through implementation of investment, institutional and sector support activities.
201. In 2005, the Water Sector Programme Support was introduced to ensure that the State party's water resources were effectively developed and efficiently managed to contribute to poverty reduction through increased access to safe water and sanitation and increased food security for low income rural and urban people. The Water Sector Programme Support led to a number of infrastructure developments. For instance, 792 boreholes were drilled out of the 865 boreholes planned representing 92%. As a result, the proportion of households with access to safe water has increased.
202. A National Urban Water Supply and Sanitation Programme (NUWSSP) was adopted in 2007/8. It provided a plan to meet the Millennium Development Goals for the urban sector. The institutional framework for rural Water Supply and Sanitation (WSS) was built on the devolved authority of local government, and the promotion of Water, Sanitation and Health Education (WASHE) to communities.
203. Some priority health programmes that have been adopted include: HIV&AIDS programmes; the National Malaria Control programme; National TB and Leprosy Control Programme; the Adolescent Health Strategic Plan 2011-15; the Child Health and Nutrition Programme and the Maternal Health Programme.

Institutional Measures

204. The State party has put in place measures to ensure equitable access to primary health care services for all persons regardless of their social, cultural,

ethnic, economic and geographical status, through the following institutions: Pharmaceutical Regulatory Authority; National Food Laboratory; Environmental Health and Epidemiological Trends Unit; Radiation Protection Authority Board; Radiology and Medical Devices Control Unit; Public Health Laboratory; Health Professions Council of Zambia; Nursing and Midwifery Council of Zambia and Zambia Environmental Management Agency.

205. The State party has a solid institutional framework on water and sanitation. The Ministry responsible for water development, sanitation and environmental protection has the mandate to develop water sources while service provision of water supply and sanitation is vested in the Ministry responsible for local government which has delegated the responsibility to local authorities.
206. The water sector comprises three sub-sectors namely; rural water supply and sanitation, urban water supply and sanitation and water resources management. Institutional reforms include: the establishment of the national regulator; the National Water and Sanitation Council (NWASCO); the establishment of 11 commercial water utilities; the separation of water services from water resource management and a clear allocation of responsibilities among the various departments involved in the water sector.

The National Water Supply and Sanitation Council (NWASCO) was established by the Water Supply and Sanitation Act, No. 28 of 1997 to ensure efficient and sustainable water supply and sanitation service provision. It works under the 'Safe, affordable and sustainable water supply and sanitation services for all' vision and as such, it has been formulating Strategic Plans since 2007 that have seen gradual improvement in the performance of the regulator and the sector as a whole.

Judicial Measures

207. The case of ***Stanley Kangaibe and Charles Chookole v Attorney-General (2009) HL/86 (unreported) 2011/HP/0818 (HC)*** represents a giant step in the promotion and protection of the rights of people living with HIV/AIDS. The two petitioners were former employees of the Zambian Air Force (ZAF). During their tenure, the ZAF subjected them to compulsory HIV testing without their knowledge and informed consent. They tested positive for HIV and were subsequently discharged. The Court held that the decision taken by ZAF to force the two petitioners to test for HIV was a clear infringement of their rights to privacy and to protection from inhuman and degrading treatment.

Administrative Measures

Access to Health Services (including Traditional and alternative Healthcare Services), Essential Medicines and Medical Supplies

208. The State party is implementing an ongoing project to rehabilitate and expand hospital infrastructure. Under the project, the State party plans to construct 650 health posts of which 335 superstructures have been completed countrywide. 275 fully functional facilities were handed over to the Ministry responsible for health. The State party completed the upgrading of Matero, Kanyama and Chilenje Clinics to first level hospitals.
209. The programme to modernise the University Teaching Hospital and other third level hospitals is still on-going. The project also constituted major procurement and installation of diagnostic and treatment equipment and skills enhancement. The Cancer Diseases Hospital comprising a 240-bed in-patient facility was also constructed.
210. In 2011, the State party opened the Lusaka General Hospital. In 2017, the hospital was upgraded to a teaching hospital and renamed Levy Mwanawasa University Teaching Hospital. The hospital initially had 150 bed spaces which were increased to 239.

Financial and Human Resources in the Health Sector

211. The budget allocation to healthcare is indicative of the country's commitment to the realisation of the right to health. In 2011, the State party met the Abuja Declaration target of allocating at least 15 per cent of the annual budget to healthcare by 2015.
212. Results Based Financing (RBF) approaches were introduced in 2008 with the aim of improving staff allocation throughout the country and the quality of services and their responsiveness to the population's expectations. The State party has also implemented the user fee removal policy in health centres and district hospitals in rural areas in early 2006, and later extended to cover facilities in peri-urban areas in mid-2007.
213. In 2008, the State party introduced a retention programme aimed at motivating quality health workers to settle in underserved areas. The programme has been expanded to include other medical practitioners, in addition to medical doctors.

The State party is also continuing with the bonding of students' agreements that require students to work for specified institutions and for a specified minimum period upon completing their courses. In this way, health workers are distributed across the country including rural areas. There is also the staff development initiative aimed at providing continuous upgrading of skills and strengthening the capacity of health workers, in order for them to favourably cope with the changing health needs and environments.

214. Several training institutions for health professionals have been established through pre-service and in-service training programmes. These include: the University of Zambia School of Medicine under the Ministry responsible for higher education; the Chainama Hills College of Health Sciences (CHCHS), and various nursing and midwifery schools, bio-medical training schools and other paramedical training institutions, at different levels, under the Ministry responsible for Health; the Evelyn Hone College, TE VETA and private health training institutions at different levels.

HIV/AIDS

215. The State party has adopted the World Health Organisation Consolidated Guidelines on HIV Testing Services (HTS) in line with the key principles of Consent, Confidentiality, Counselling, Correct Test Results and Connection to HIV prevention, treatment and care (the 5Cs principles).
216. Since 2008, the State party has been implementing Provider Initiated Testing and Counselling (PITC). As at September, 2010, about 300,000 people, 23,000 of whom are children, were on anti-retro viral drugs, representing 89% of the total number of people with HIV/AIDS in need of treatment. HIV/AIDS infected pregnant women receive anti-retroviral treatment (ART), under the prevention of mother to child transmission(PMTCT). PMTCT services have reduced transmission rate from mother to children from 30% to 12.4%.

Condom promotion and distribution have been intensified within communities as one of the strategies to prevent the spread and re-infections of HIV. In addition to the above, testing, counselling and treatment for HIV/AIDS are now routinely done. Further, the Ministry for health provides free health care services for HIV/AIDS, STIs and other related reproductive health services. Comprehensive Sexuality Education has been introduced in the Zambian schools and communities to improve on health education and health promotion among the youths.

Challenges

217. Although the State party has made great strides in the realisation of the right to health, it is yet to achieve the vision of 'bringing health services as close to the family as possible.' The State party continues to work on areas that are still recording negative indicators. Currently, the State party continues to have a high burden of disease, mainly characterised by high prevalence and impact of communicable diseases, particularly HIV/AIDS, STIs , tuberculosis and malaria. Inadequate and sometimes unsuitable infrastructure and equipment, inadequate financial and human resources, irregularities in the supply of drugs and other medical items, poor health-seeking behaviour, poor water and sanitation, poor nutrition and inadequate provision of health services are some of the challenges that the State party continues to face.
218. Further, the State party experiences an inconsistent supply of essential pharmaceuticals and medical supplies due to factors such as inadequate funding, poor quantification, weak regulatory framework and weaknesses in the procurement, distribution logistics and storage management systems.
219. The health sector is grappling with inadequate appropriately qualified and experienced health workers, in the right skills-mix. This challenge is acute in rural areas which do not have adequate capacities to attract and retain qualified health workers. Measures taken to alleviate this challenge include: the establishment of the Drug Supply Budget Line which guarantees availability of funds specifically for drugs; the continuous mobilisation of funding for procurement of essential drugs and medical supplies, particularly vaccines, malaria, HIV/AIDS and TB commodities from Cooperating Partners. Furthermore, long distance to health facilities, especially in rural areas is one of the barriers to accessing health care services.
220. Access to clean and safe water by most people of the State party remains a challenge. In 2015, only 40% of households in the State party had access to improved sources of sanitation. Additionally, 27% of people in urban areas and 85% in rural areas had no access to improved sources of sanitation. The rural population is characterised by limited access to safe water supply and sanitation. In dealing with the challenges in water and sanitation, the Seventh National Development Plan promotes alternative financing for water and sanitation, the enhanced provision of adequate solid waste management

services, enhanced research in water supply and sanitation services, and improved provision of adequate solid waste management services.

221. Water services reforms in Zambia have had positive outcomes, but also reveal enduring challenges. While the reforms have contributed to the reorganisation of the water services sector, improving service delivery, improving management capacity, improved number of service hours and better quality of services in general, these improvements mostly apply to people in high-income urban areas. People in low-income and peri-urban communities have not seen much of these improvements.
222. Water pollution by mining companies is also a challenge. Some mining companies on the Copperbelt and other mining areas discharge what is above the prescribed pollution control limits. The Zambia Environmental Management Agency (ZEMA) continues to utilise the relevant provisions of the Environmental Management Act No. 12 of 2011 to ensure all companies comply with the required conditions. .
223. In 2011, the State party met the Abuja Declaration target of allocating at least 15 per cent of the annual budget to healthcare by 2015. However, it has since faced numerous difficulties in maintaining that percentage allocation of the national budget to the health sector.
224. The State party has established several training facilities. However, the major challenges common to all these facilities is inadequate teaching staff, accommodation and funding.
225. Challenges being faced under the Water Sector Programme Support include: some boreholes not being drilled but paid for; wasteful expenditure due to overpayment on contract prices; poor borehole siting; faulty equipment; lack of training of communities in the maintenance of facilities and the quality of water in some boreholes not meeting the minimum water quality standards as set by WHO.

ARTICLE 17: RIGHT TO EDUCATION AND CULTURE

226. The State party has made notable strides in ensuring that the right to education and culture is guaranteed to all. This can be evidenced from a number of legislation and institutional mechanisms that the State party has put in place. The State party has also embarked on a robust infrastructure development programme that has seen over thousands of schools and colleges being built.

That notwithstanding, the State party still faces a number of challenges to the full realisation of these rights for its people. Below is what the State party has done in order to fulfill its obligations under the Charter.

Legislative Measures

- 227. Article 24 of the Constitution provides for the protection of young people from exploitation. The provision of quality education is necessary to ensure that children do not become vulnerable to exploitation and abuse and are empowered to seek gainful employment opportunities in adulthood.
- 228. The Education Act domesticates the Convention on the Rights of the Child in relation to education. Under section 14, the Act asserts a person's right to early childhood care and education and to basic and high school education. The same section also recognizes a child's right to free basic education. Further, section 14(2) of the Act mandates the State party to make general and vocational education progressively available and accessible to all persons. It also places the burden of responsibility on the parent to ensure that a school-age child attends school.
- 229. The Higher Education Act No. 4 of 2013 established the Higher Education Authority which is mandated to regulate tertiary education and training. The Act provides for the functions and powers of the Higher Education Authority.
- 230. Section 22 of the Persons with Disabilities Act seeks to make the education system inclusive at all levels by enabling persons with disability to participate effectively through measures such as the provision of free primary, secondary and tertiary education. The Act also obligates the State party to provide reasonable accommodation and assistive devices for people with disabilities. Section 23 of the Education Act further guides authorities in ensuring equality of access to education for children with special educational needs and promotes affirmative action in relation to this category of learners, including identification, diagnosis, and assessment for the placement of special educational needs to learners.

Administrative Measures

- 231. Between 2005 and 2015, a total of 14,235 classrooms were constructed at primary education level and 4,690 at secondary education level. Total student enrolment in public universities increased from 7,933 in 2008 to 59,272 in 2015.

232. The State party has constructed 9,400 extra bed spaces at the State party's public universities, namely: the University of Zambia; the Copperbelt University and the Mulungushi University. Furthermore, the State party has established three more public universities. These being, Chalimbana, Kwame Nkrumah and Mukuba Universities.
233. Curriculum reform has taken place at both general and tertiary levels, and special education courses were introduced to the curriculum in colleges and universities. Infrastructure has also improved in recent years, through the construction of the National Centre of Excellence for Learners with Special Educational Needs and the expansion of the Zambia Institute of Special Education.

Institutional Measures

234. The Special Needs or Inclusive Education Unit under the Ministry responsible for education is mandated to formulate policies, monitor progress related to increasing access to education for learners with special educational needs and facilitate the procurement and development of special needs materials. It is also the official entity in charge of the implementation and evaluation of the Inclusive Schooling Programme. The Special Needs or Inclusive Education Unit has developed specialised materials such as documents transcribed into Braille, screening and assessment tools, and specialised training modules.
235. The Zambia Institute of Special Education trains teachers in teaching of the visually and hearing impaired. The Institute also trains teachers for children with learning difficulties and early childhood education for children with special educational needs.

Policies and Programmes

236. The National School Health and Nutrition Policy (2006) aims to promote and improve the nutrition status of learners in order to enhance and sustain their physical, social and mental well-being. It also aims to promote and maintain the health status of learners through the initiation of effective health-promoting activities.

237. The Ministry of Education Strategic Plan (MoESP) 2003–2007 is one of the main plans implemented to ensure policy measures bring about greater access to primary education.
238. Vision 2030 underpins the importance of education in socio-economic transformation. It endeavours to put in place a comprehensive and diversified curricula that is responsive to the social and economic needs of the individual and the community , increase the literacy rates, increase Net Enrolment Rates, improve pupil or teacher ratio, improve the pupil or text book ratio at basic school, reduce the average distance to basic schools, increase university and skills training output and increase equity of access while maintaining internationally recognised and locally validated standards of quality.
239. The successive National Development plans also recognised the importance of education and propose appropriate measures to ensure the right to education is guaranteed for all Zambians.
240. The State party is continually taking steps to ensure gender parity in education. These include the Programme for the Advancement of Girls' Education (PAGE), introduced in the mid-1990s and the fifty-fifty enrolment policy at Grade 1. As a result, in 2012, the State party achieved a gender parity index of 1.00 for primary education. Although the same proportion of girls and boys enter the school system, there is still a challenge in retaining girls in school, particularly in rural areas. Opportunities for boys and girls to enter the school system are equal but girls are more likely to drop out, most notably by the fifth grade. Nonetheless, the State party also introduced the Re-entry Policy which provides for the re-admittance of girls who fall pregnant into schools.
241. The Inclusive Schooling Programme has been introduced in all the provinces and has provided more than 220,000 special education needs learners with access to education. The State party is focusing on enhancing training on inclusive approaches or on inclusive education in general.
242. Legislative, policy and programmatic interventions , has led to considerable progress as regards enrolment and completion rates. The primary gross enrolment ratio (GER) was estimated at 108 per cent and the adjusted net enrolment ratio at 93 per cent in 2013. The completion rate for lower secondary has increased considerably, from 25.9% in 2000 to 62.4% in 2012.

Other Measures

243. Since 2000, more than 600,000 new school places have been created in 2,758 community schools to strengthen equity and access to education for all. Further, the State party has abolished school fees for primary education to attain access to education for all.
244. The State party is committed to provide primary and secondary education in refugee settlements. In the Meheba Refugee settlement, there are 5 government schools and 9 schools run by local communities. In Mayukwayukwa Refugee settlement there are 2 State and 3 community schools. Community Services Department under the Ministry of Home Affairs has attempted to help vulnerable refugees through, for example, back-to-school programs for unaccompanied minors.

Challenges

245. The secondary education sector faces challenges such as poor infrastructure and space, a shortage of qualified teachers, and a lack of equipment, especially for the teaching of sciences and practical subjects. Nonetheless, the State party has introduced a number of measures to enhance access to and the quality of secondary education including re-introducing free and compulsory secondary education up to Grade 12 and upgrading of community schools offering secondary education to fully fledged secondary schools, among others.
246. Access to tertiary education still remains out of reach for many people in the State party. An estimated 8% of Secondary school leavers progressively access tertiary universities. The State party has encouraged private sector involvement in tertiary education to enhance access to institutions of higher education. This has led to the emergence of many private universities.
247. Further challenges encountered as regards access to tertiary education include inadequate and insufficient classroom space, poor curriculum relevance and inadequate and substandard infrastructure. To curb the challenge of the shortage of qualified teachers, especially in mathematics and sciences, the Ministry responsible for General Education has launched the Fast Track Training initiative for teachers of science and mathematics. The Ministry has also commenced converting a number of colleges of education into universities, in order to increase the output of teachers with degree qualifications in mathematics, science, and social sciences.
248. Discrimination against girls and persons with disabilities remains a major hindrance to their accessing education. The State party has made a number of interventions in this regard, as mentioned above, to ensure that society at large does not prevent such groups of persons from accessing education at all levels.

249. Persons with disabilities face challenges such as physical inaccessibility of most institutions; lack of deaf culture or education that is tailored at producing people who are competent enough to handle deaf children in the community in general; shortage of special education teachers who are competent enough in sign language; and stigmatisation and negative attitude of fellow students or even school administration and staff members. Only a few schools have special units for pupils with disabilities. Additionally, there are very few special schools for disabled children and schools with special education programmes.
250. Lack of Early Childhood Policy and inadequate finances remain some of the challenges the State Party is faced with.

ARTICLE 18: RIGHT TO PROTECTION OF FAMILY, WOMEN, CHILDREN, THE AGED AND THE DISABLED (INCLUDING THE RIGHT TO HOUSING AND SOCIAL SECURITY)

Protection of the Family: Legislative Measures

251. The Preamble of the Constitution reaffirms this commitment to ensure that values relating to the family are maintained. Family life, for instance, marriage, custody of children, divorce is governed by both customary and statutory law.
252. Under the Marriage Act Chapter 50 of the Laws of Zambia, the legal age of marriage is 21. However, persons of ages between 16 and 21 can get married with consent from their guardians or a Judge of the High Court.
253. The Matrimonial Causes Act No. 20 of 2007 relates to persons married under the Marriage Act, and defines family assets as those acquired by either one or both parties with the intention that they should continue providing for them and their children throughout their lives and used for the benefit of the family as a whole. Family assets include capital items such as the matrimonial home, furniture and other revenue-producing assets.
254. The Adoption Act Chapter 54 of the Laws of Zambia provides regulations which must be followed when a person intends to adopt a child. The major objective of the Act is to ensure the protection and best interest of the child.
255. The Intestate Succession Act provides for the protection of the surviving spouse, children and other beneficiaries in case of intestacy.

Policies

256. The State party launched the National Strategy on ending Child Marriage for the period 2016-2021 with a number of interventions aimed at eliminating child marriage. The objectives for the Strategy on Ending Child Marriage in Zambia include: strengthening multi-sectoral responses in order to reduce children's vulnerability to marriage; facilitating the development and review of policies and legislation in order to ensure consistent interpretation and application of child related interventions, among others.

Challenges

257. The rules and practices under customary law place women in subordinate positions in marriages. In some instances, payment of bride price disempowers the woman in marriage thus making her vulnerable to abuse and marginalisation after divorce.

Children's Rights

Legislative Measures

259. The Juveniles Act Chapter 53 of the Laws of Zambia was amended in 2011 by the repeal of section 122 and replaced with a new section 122 to enhance the protection and promotion of the rights of a child. The Act provides for the care of circumstantial children, children in contact with the law as well as those who are in conflict with the law.
258. Anti-Human Trafficking Act makes provision for the prohibition, prevention and prosecution of human trafficking. It domesticates the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which supplements the United Nations Convention against Transnational Organised Crime.
259. The Non-Governmental Organisations' Act provides for the co-ordination and registration of NGOs, *inter alia*. The Act regulates both local and international NGOs including those that provide services to the vulnerable groups such as children, older persons, women and persons with disabilities.

260. Necessary amendments have been made over the years to domesticate international statutes and best practices. The current efforts to review child related laws and combine them into one bill known as Children's Code Bill are also meant to further enhance the protection of the rights of children.

Policies and Programmes

261. The State party developed the National Social Protection Policy in 2014, in collaboration with various Stakeholders. The Policy identified, among others, the Protection Pillar which is aimed at strengthening legal rights at all levels to ensure appropriate laws are in place, raise awareness of legal rights, enforce the law against offenders and provide appropriate support for victims.
262. The National Social Protection Policy together with other policies such as the National Child Policy, Education Policy, Youth Policy and Guidelines on Alternative Care and Reintegration, Minimum Standards of Care for Children in Child Care facilities have been developed to domesticate international treaties in the protection of children's rights.
263. The State party launched the National NGO Policy in 2018 which is aimed at promoting an effective, efficient and well-coordinated NGO sector that contributes to sustainable National Development. The NGO Policy provides policy guidelines to NGOs including those dealing with issues of children, older persons, women and persons with disabilities as well as for harmonising their activities to the national development plan of the State party.
264. In order to ensure that the rights of children are protected, the Minimum Standards of Care for Child Care Facilities have been developed in compliance with Article 3 (3) of the United Nations Convention on the Rights of the Child. The document provides standards for improving child care services and facilities throughout the country, in the best interest of children.

Institutional measures

265. The Gender Equity and Equality Commission has been established under the Gender Equity and Equality Act with the mandate to provide for the taking of measures and making of strategic decisions in all spheres of life in order to ensure gender equity, equality and integration of both sexes in society and promote gender equity and equality as a cross cutting issue in all spheres of life

and stimulate productive resources and development opportunities for both sexes, *among others*.

Rights of Persons with Disabilities

266. The State party has, in the recent years, established institutions and put in place measures aimed at promoting and protecting the rights of Persons with Disabilities in terms of accessibility to ,among others, health, education and accessibility to physical infrastructure.

Legislative Measures

267. Article 23 of the Constitution provides that no law shall make any provision that is discriminatory either of itself or in its effect. Article 266 of the Constitution defines discrimination as directly or indirectly treating a person differently on the basis of that person's birth, race, sex, origin, colour, age, disability, religion, conscience, belief, culture, language, tribe, pregnancy, health, or marital, ethnic, social or economic status.
268. Section 6(1) of the Persons with Disabilities Act provides that, a person shall not discriminate against a person with disability on the basis of disability.
269. The Mental Health Act No. 6 of 2019 provides for the promotion and protection of the rights of persons with mental illness, mental disorder, mental impairment or mental disability.

Policies and Programmes

270. The National Policy on Disability was developed and launched in 2015 and an implementation framework developed to guide the implementation thereof. With the development of this Policy, it is envisioned that persons with disabilities would enjoy equal opportunities that are fundamental for living and development by the year 2030.
271. The National Social Protection Policy of 2014 has disability as one of its main pillars. The overall objective of the Policy is to contribute to the well-being of the people of the State party by ensuring that vulnerable people have income security to meet basic needs and protection from worst impact of risks and shocks. The Policy, therefore, is aimed at safeguarding and promoting the realisation of the right to an adequate standard of living for people with

disabilities as well as ensuring equitable access to opportunities by people with disabilities.

272. The State party launched the National Non-Governmental Organisation Policy in 2018 which provides policy guidelines to NGOs including those dealing with issues of persons with disabilities as well as for harmonising their activities to the national development plan of Zambia.
273. The State party has developed other policies that are inclusive of persons with disabilities, such as the National Child Policy of 2015, the National Youth Policy and the Youth Employment and Empowerment Action Plan of 2015.
274. The State party has continued to mainstream disability in all developmental programmes. For instance, the inclusion of sign language and braille in various institutions is being promoted. There is also expanded use of ramps and elevators in public buildings and these are incorporated into the building plans. The State party has waived duty on the importation of vehicles meant for persons with disabilities.
275. The State party has been implementing the Social Cash Transfer Scheme which has so far benefited over 632, 327 households across the country out of which approximately 70,030 households have persons with disabilities. This translates into about 364,156 persons with what are deemed 'severe' disabilities. Social Cash Transfers are regular, non-contributory payments of money provided to individuals and households. The main objective of the Scheme is to reduce extreme poverty and inter-generational transfer of poverty among beneficiary households and the community. The ordinary beneficiaries receive monthly cash transfer of K90 whilst the eligible persons with disabilities on the Scheme receive twice the amount, K180, and are paid bi-monthly.
276. PWAS is another non-contributory social assistance scheme put in place to support persons with disabilities and the elderly. Under PWAS, Community Welfare Assistance Committees identify those in need such as the aged, disabled, chronically ill, female-headed households, child-headed households and victims of minor disasters. The assistance that is rendered includes educational support for primary and secondary levels, health support to meet the cost of prescribed drugs and orthopedic appliances, food, beddings and clothing.

277. Other important non-contributory social protection programmes which can be accessed by persons with disabilities if they fall under certain poverty and/or vulnerability thresholds include the National Trust Fund for Persons with Disabilities and the Food Security Pack programme.
278. In 2006, the State party introduced the user fee removal policy which eliminated health fees and began to progressively provide free access to primary health care for everyone across the country. The State party, through the Ministry responsible for health is implementing a contributory national social health insurance scheme for employees of the formal sector. This is at no cost to persons with disabilities.
279. The National Implementation Plan on Disability was developed in order to enforce implementation of the National Policy on Disability, in consultation with various stakeholders including representative organisations of persons with disabilities and relevant State ministries.

Institutional Measures

280. The Ministry responsible for community development and social services is mandated to formulate and implement policy.
281. ZAPD is charged with the responsibility of coordinating and regulating the provision of inclusive services for persons with disabilities through targeted co-ordination and regulation interventions, creation of strategic partnerships and fostering awareness creation on disability issues.

Other Measures

To promote proper and informed planning through statistics, the first ever National Disability Survey was conducted by the State party with support from co-operating partners in 2015 which covered all 10 provinces of Zambia. The Survey was aimed at estimating the national prevalence of disability among adults and children, disaggregated by sex, severity of disability, province and the rural/urban division. It is based on the understanding of disability set out in the International Classification of Functioning, Disability and Health (ICF). This Survey provided clear statistics on the prevalence of disability in the country, thus enabling informed planning and programming for persons with disabilities.

Rights of the Elderly

Policies and Programmes

282. The National Policy on Ageing was developed in 2015 and is meant to ensure that all citizens age with dignity and honour. The National Social Protection Policy caters for all social protection issues including the elderly.

The State party launched the National Non-Governmental Organisation Policy in 2018 which is aimed at promoting an effective, efficient and well coordinated NGO sector that contributes to sustainable National Development. The NGO Policy provides guidelines to NGOs including those dealing with issues of children, older persons, women and persons with disabilities as well as for harmonizing their activities to the national development plan of the State party.

283. There is an old age pension scheme in place which targets persons aged 65 and over. The scheme had a total of 6,623 beneficiaries in 2013. Older persons looking after orphans also benefit from other Social Cash Transfer Schemes as well as the PWAS. There is a free medical scheme for people aged 65 years and older covering consultations. However, other medical requirements such as x-rays, treatments and drugs have to be borne by older people themselves.
284. The 7NDP provides a framework to address the needs of the elderly and disabled as a means of ensuring their integration as productive members of society specifically centred on infrastructure development and access to social services such as, health, home security, education, skills and entrepreneurship training.

Administrative Measures

285. The Ministry responsible for community development and social services runs a number of old peoples' homes to support older persons over 60 years who are destitute and whose unfortunate circumstances warrant them being housed in these homes. The State party currently has over 300 older persons in 10 old peoples homes.

Challenges

286. Negative cultural and societal dynamics continue to endanger the lives of older persons. They are victims of harmful stereotyping and hostile prejudices resulting in age-related discrimination and aggravated violence.

287. Poverty is another challenge in that 78 % of households headed by individuals aged 60 years or older fall below the poverty line. In the era of the HIV/AIDS pandemic, older persons are also faced with the burden of caring for orphans with little understanding of the pandemic and how they are supposed to protect themselves from contracting the virus. Some are involved in risky activities such as polygamous and inter-generational relationships. Further, traditional birth attendants in rural areas that do not have any information on how HIV/AIDS is transmitted and on how to prevent contracting the virus are at risk.

PEOPLE'S RIGHTS

ARTICLE 19: ALL PEOPLE SHALL BE EQUAL

288. The right to equality is addressed in Articles 2 and 3 of this report.

ARTICLE 20: RIGHTS TO EXISTENCE AND SELF-DETERMINATION

289. All people living in the State party have the right not to be discriminated against on the basis of tribe, conscience, belief or culture.

Legislative Measures

290. The Constitution recognises and upholds the multi-ethnic, multi-racial, multi-religious and multi-cultural character of the State party and the right of the people to manage their affairs and resources sustainably in a devolved system of governance.
291. In encouraging the practice of local customary law amongst the people of the State party and knowing that many Zambians, especially those in rural areas, adhere to customary beliefs and traditions, State party also recognises traditional leaders as well as their role in dispute resolution through the Local Courts Act, among other mechanisms.

Institutional Mechanisms

292. The State party established a Ministry responsible for chiefs and traditional affairs to administer and promote chiefs' affairs and traditional governance systems. The Ministry is an important institution for the preservation of the State party's heritage and cultural diversity. Prior to the establishment of the Ministry, the traditional governance systems and chiefs' affairs were administered by the Ministry responsible for local government.

293. In addition, the House of Chiefs provided for under Article 169 of the Constitution was established to express a cultural, historical and ethnic point of view on public policies and advise government on traditional and customary matters.
294. The Ministry responsible for national guidance and religious affairs was established to promote national values and actualise the declaration of Zambia as a Christian nation for social transformation and sustainable development.
295. The Human Rights Commission was established under Article 230 of the Constitution to promote and protect human rights for all people in the State party.

Policies and Programmes

296. The State party has been mainstreaming national values, principles and ethics in the country's national development agenda. The State party has promoted platforms for religious engagement and participation. The State party has been implementing a programme on mind-set change especially for young people to inculcate hard work, morals, tax compliance and self-reliance. The State party through the Ministry responsible for national guidance and religious affairs has also developed a concept note on mind-set change and been undertaking bulk public dissemination of mindset change messages through mobile network providers, electronic and print media. In addition, the State party also developed a national framework for gathering evidence on the application of national value based transformation. Further, a draft Policy on National Values, Principles and Religious Affairs has been prepared.

Challenges

297. Women form a segment of society which faces a number of challenges with regard to their ability to actively participate in political, economic and cultural development. While there are no legislative and policy restrictions on their right to participate in decision-making, their participation is limited due to prejudice, gender stereotyping and gender-based violence, amongst other things.

ARTICLE 21: RIGHT TO DISPOSE OF WEALTH AND NATURAL RESOURCES

Legislative Measures

298. Article 63(2) of the Constitution provides that one of the duties of Parliament is for the National Assembly to oversee the performance of executive functions by ensuring equity in the distribution of national resources amongst the people of Zambia.
299. Article 173 (1) (b) of the Constitution provides for one of the guiding principles of the Public Service as, “promotion of efficient, effective and economic use of national resources.
300. Articles 253 (1)(a)(e)(h)(i) and 255(f)(i)(j) of the Constitution provide principles which guide the use, development and management of land and natural resources.
301. Article 16 of the Constitution provides that no property of any description shall be compulsorily acquired unless under the authority of an Act of Parliament which provides for payment of adequate compensation for the property compulsorily acquired. The Lands Acquisition Act sets out the procedures on how the Government can compulsorily acquire land and also provides for compensation in the instance that an individual’s land is compulsorily acquired.
302. The Competition and Consumer Protection Act No. 24 of 2010 provides for protection of the consumer from unfair trade practices.
303. The Zambia Development Agency Act guarantees that investors property rights shall be respected. No investment of any description can be expropriated unless Parliament has passed an Act relating to the compulsory acquisition of that property.
304. The Environmental Management Act provides for public participation in environmental decision making. This allows citizens to participate in decisions on whether or not to dispose of their natural resources.

305. The Movable Property (Security Interest) Act No. 3 of 2016 provides for the creation of security interests in movable property so as to contribute to economic development. It also harmonises secured transaction laws and provides for the harmonisation of conflict of laws in order to promote the financing of international trade and make security interests effective against third parties.

Administrative Measures

306. The State party has produced some guidelines for companies to report not only on their finances and financial performance but on their environmental and social impacts.
307. The Judiciary facilitates the administration of justice through resolving disputes between individuals or individuals and the State, interpreting the Constitution and the laws of Zambia, promoting the rule of law and protecting the human rights of individuals and groups.
308. The Ministry responsible for lands and natural resources administers and manages land in a transparent and sustainable manner in order to contribute to socio-economic development.
309. The Competition and Consumer Protection Commission was established to safeguard and promote competition and protect consumers against unfair trade practices.
310. ZEMA ensures sustainable management of national resources and protection of the environment.

Policies and Programmes

311. The State party has been implementing Investment Promotion and Protection Agreements which provide for the promotion and protection of investments made by investors.
312. The State Party is drafting a Land Policy which is meant to, among others, ensure the equality of citizens to own land and ensure the indiscriminate management of land.

313. The State party introduced the Decentralisation Policy as a means of evening out the distribution of resources and thereby improving service delivery. The State party has also, through various Government departments and agencies, endeavoured to hold as many public consultations with local communities as possible, when large-scale development projects, plans and programmes are to be implemented which may have a negative impact on locals. The State party works closely with stakeholders to ensure people reap benefits from large-scale development projects and are adequately compensated in the event of displacement.

Challenges

314. There is a lack of mandatory procedures to ensure corporate social responsibility to support provision of socio-economic amenities in host communities.
315. While there are a number of developmental projects taking place throughout the State party, particularly in the mining sector, uneven distribution of resources and revenue generated from those activities hampers the trickle-down effect of such economic activities to the people. Many towns that are a hub for Foreign Direct Investment have very little growth and development.

ARTICLE 22: RIGHT TO DEVELOPMENT

Legislative Measures

315. Article 147 of the Constitution provides that the management and administration of the political, social, legal and economic affairs of the State party shall be devolved from the national Government level to the local Government level. The concurrent and exclusive functions of the national, provincial and local Government levels are also listed under the Constitution.
316. The Local Government Act No. 2 of 2019 gives effect to the decentralization of functions, responsibilities and services at all levels of local government and ensures democratic participation in and control of decision making by the people at the local level and provides for the role of traditional leadership in democratic governance.
317. The Constituency Development Fund Act came into effect to enhance government funding for purposes of development of constituencies by providing

accountability, transparency and equitable management and disbursement of the fund in various constituencies.

318. Article 198 of the Constitution makes provision for the the guiding principles of public finance. These include transparency and accountability in the development or formulation of macro-economic frameworks, socioeconomic plans and the budget; prudent and responsible use of public resources as well as the promotion of a public finance system that ensures that the burden of taxation is shared fairly, revenue raised nationally is shared equitably among the different levels of Government and that expenditure promotes the equitable development.
319. The Public Finance Management Act No. 1 of 2018 provides for institutional and regulatory framework for management of public funds, the strengthening of accountability, oversight, management and control of public funds in the public financial framework. The Act further enhances cash management systems to ensure efficient and effective utilisation of cash for the Government and the management and control of public assets and stores.
320. The Movable Property (Securities Interest) Act provides for, among other things, the creation of security interests in movable property so as to contribute to economic development, harmonisation of secured transaction laws, harmonisation of conflict of laws in order to promote the financing of international trade and make security interests effective against third parties. It also enhances the availability of low-cost secured credit to allow debtors to use the full value inherent in their assets to support credit.
321. Citizens Economic Empowerment Act established the Citizen Economic Empowerment Commission. The Act provides for, among things, promotion of economic empowerment of targeted citizens, citizen empowered companies, citizen influenced companies and citizen owned companies; promotion of gender-equality in accessing, owning, managing, controlling and exploiting economic resources. Through the Commission, the State Party also implements reservation schemes issued under Section 21 (1) and (2) of the Citizens Economic Empowerment Act. These activities relate to Reservation Schemes issued under the Citizens Economic Empowerment (Reservation Scheme) 2017 which relates to reserved areas such as poultry, block making, Quarrying and Domestic Haulage sectors and the Citizens Economic Empowerment (Reservation Scheme) 2019, which relates to reserving cleaning services sector for targeted citizens.

322. The Zambia Development Agency Act established the Zambia Development Agency (ZDA). The Act was enacted to foster economic growth and development by promoting trade and investment in Zambia through an efficient, effective and coordinated private sector led economic development strategy.

Policies and Programmes

323. Vision 2030 sets out the vision of the State party to become a prosperous middle-income country by the year 2030. The Vision is all-encompassing of a wide range of issues linked to achieving this goal including access to health care services, the importance of public participation and access to information.
324. The State party through its National Development Plans has continued to implement interventions aimed at poverty reduction towards the realisation of Vision 2030. These include the Fifth National Development Plan (2006-2010), Sixth National Development Plan (2011-2015), Revised Sixth National Development Plan (2013-2016) and 7NDP (2017-2021). Each of these Plans has been framed to contribute to the attainment of Vision 2030. For instance, the 7NDP is premised on creation of a diversified and resilient economy for sustained growth and socio-economic development.
325. The Plans place emphasis on promoting inclusive growth initiatives that aim at ensuring that benefits of economic growth are shared more equitably. The strategies are focussed on systematically and comprehensively promoting increased production and productivity, providing market linkages between urban and rural areas for primary products, enhancing access to rural labour reserves for industry and enhance access to finance or credit. Other strategies are focussed on employment creation and improvement of labour market policies and adoption of income redistribution measures.
326. The National Social Protection Policy of 2014 contributes to the well-being of the people of the State party by ensuring that vulnerable people have income security to meet basic needs.
327. The State party has also integrated into its National Plan, the United National SDGs, Africa Agenda 2063 and various regional development frameworks such as the SADC Regional Indicative Plans. Through this approach, international and regional co-operating partners have continued to complement Government development efforts.

328. The State party also reformed and re-oriented consultative structures and other advisory institutions in order to improve citizens' participation in development through policy formulation in the development agenda of the country. Thus, the legal and administrative frameworks for operationalising the consultative structures and other advisory institutions have been put in place. Particularly, reform and re-invigoration of national and sub-national structures, such as the National Development Committee (NDCC), the Cluster Advisory Groups (CAGs), Provincial Development Coordinating Committees (PDCCs), District Development Coordinating Committees (DDCCs) and Ward Development Committees (WDCs) was done.
329. The National Planning and Budgeting Policy of 2018 guides the country's planning and budgeting process in setting priorities in the development agenda to ensure co-ordination, ownership, transparency and accountability in the development of national development plans and budgets.
330. In 2009, the State party launched the Decentralisation Implementation Plan for the implementation and operationalisation of the National Decentralisation Policy of 2002 (NDP) which was revised in 2013. Through the NDP, the State party assists local authorities in increasing accountability and transparency in the use of local resources. Further, the State party created districts to further decentralise government and thereby improve service delivery.
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331. The State party is also implementing the Value Chain Cluster Development Programme to assist Micro, Small and Medium Enterprises. The State party will provide support in terms of finance, entrepreneurial skills and technology through the same Programme implemented under the Citizens Economic Empowerment Commission.
332. National Cultural Policy of 2003 is a reflection of the State party's intention to foster the preservation, development and promotion of the State party's diverse cultural heritage. It provides an enabling environment for safeguarding and promoting Zambian tangible and intangible heritage and ensures the development, promotion and protection of arts and cultural industries.

Judicial Measures

There are no judicial measures to report on.

Institutional Measures

- 333. The State party established the Ministry responsible for community development and social services which is mandated to formulate policy for facilitating the provision of equitable Basic Social Protection services for inclusive sustainable human and community development.
- 334. The Cabinet provides leadership and provides policy direction so that development outcomes contained in the 7NDP are met on time. The Cabinet facilitates the establishment of a supportive political and socio-economic environment for smooth and timely implementation of the Plan. To make informed decisions, the Cabinet is facilitated with information through Cabinet Briefs are submitted periodically.
- 335. The Ministry responsible for development planning coordinates all advisory bodies to ensure that they focus their attention on achieving the development outcomes of the 7NDP. The Ministry also supports implementation, monitoring and evaluation processes and collaborates with the Cabinet Office to ensure uptake of results from programme implementation, provide remedial measures where implementation and coordination bottleneck arise and where possible, promote reinforcement on the implementation of programmes and projects.
- 336. The National Arts Council of Zambia Chapter 170 of the Laws of Zambia is a statutory body established under the National Arts Council Act to coordinate all artistic activities in the country.
- 337. The Ministry responsible for chiefs and traditional Affairs has the mandate to administer and promote chiefs affairs, traditional governance system and preserve the State party's heritage, culture and arts for sustainable development and national identity.
- 338. The House of Chiefs established under Article 169 of the Constitution of Zambia is an advisory body on traditional, customary and any other matters referred to it by the President. The other functions for House of Chiefs include initiating, discussing and making recommendations to the National Assembly regarding socio-economic development in provinces. In addition, the House of

Chiefs initiates, discusses and makes recommendations to the Local Authority regarding the welfare of communities.

Other Measures

- 339. The State party, with support from various CSOs, undertakes budget addresses and ensures national budgets available to the public. It also makes an effort to ensure citizens are able to understand the budget in simple terms holds public consultations with support from CSOs to take public comments and submissions on the budget.
- 340. The State party has created a conducive environment for private sector and CSO participation in the developmental agenda of the country which is anchored on the 7NDP institutional and implementation framework.
- 341. The State party has also created a conducive environment for co-operating partners to complement and supplement the State party's efforts towards national development. For instance, through the Joint Assistance Strategy and Dialogue platforms, co-operating partners meet with the State party regularly to discuss matters of mutual interest and development cooperation, among others.
- 342. The State party has put in place measures that have led to the reduction in time on registration of businesses and automation of services such as tax online.

Challenges

- 343. Huge disparities exist between rural and urban areas which has affected the capacity of the rural population to significantly contribute to economic growth. Therefore, the State party has been implementing interventions aimed at reducing inequality not only between rural and urban areas but also within the areas to improve the well-being of the population.
- 344. The State party faces challenges in harnessing and preserving its culture due to competing global cultural practices that her citizens are subjected to on account of globalisation and modernisation.

ARTICLE 23: RIGHT TO PEACE AND SECURITY

- 344. The State party enjoys relative peace and security within its borders. The State party also continues to recognise the importance of foreign relations. It

continues to host refugees fleeing conflict and has put in place various measures to ensure refugees and asylum seekers live a dignified life free from discrimination.

345. The State party continues to contribute to international and regional peacekeeping operations and is always available to help maintain international peace and security. The State party's military, police and civilian experts continue to serve in many peacekeeping missions around the world.

Legislative Measures

346. The Defence Act Chapter 106 of the Laws of Zambia seeks to ensure defence of the State party's sovereignty and territorial integrity in order to guarantee the national peace and security of her citizens and residents, foreign nationals and other entities intending to operate in the State party.
347. The Public Order Act Chapter 113 of the Laws of Zambia makes provision for the preservation of public order. The Act is under review to broaden the enjoyment of freedoms of association and assembly.
348. The Immigration and Deportation Act regulates the entry into and the remaining within the State party of immigrants and visitors as well as the removal from the State party of criminals and other specified persons. It also provides for creation of an environment of co-operation with other institutions.
349. The Citizenship Act provides for the acquisition, deprivation and renunciation of citizenship of Zambia.
350. The Passport Act controls the issuance of passports and travel documents.
351. The Refugees Act No. 1 of 2017 provides rights to refugees within the country and regulates their movements. Section 27 of the Act provides that a recognised refugee shall comply with the written laws and the measures taken for the maintenance of public order. Further, section 21(1) provides that the Minister may order the expulsion of a recognised refugee from Zambia if the Minister considers that the expulsion is necessary or desirable on the grounds of national security or public order.
352. The Anti-Terrorism and Non-Proliferation Act No. 6 of 2018 provides for the prevention and prohibition of carrying out of terrorism financing and proliferation

activities and measures for the detection and prevention of terrorism and proliferation.

Institutional Measures

- 353. The State party has a number of Defence and Security institutions mandated to maintain peace and security within the country. Article 190 of the Constitution provides for principles relating to the State party's Defence Force and National Security Services.
- 354. establishes The Defence Force of Zambia established under Article 192 of the Constitution comprises the Zambia Army, the Zambia Air Force and the Zambia National Service . Its mandate is to preserve and defend the sovereignty and territorial integrity of the Republic; foster harmony and understanding among the Zambia Army, Zambia Air Force, Zambia National Service and members of society and co-operate with State organs and State institutions in times of public emergencies and national disasters.
- 355. The State party's National Security Services established under Article 193 of the Constitution comprises the Zambia Police Service, Zambia Security Intelligence Service, Zambia Correctional Service and other national security service, as prescribed. Their mandate includes: to foster and promote good relationships with the Defence Force, other national security services and members of society, *inter alia*.
- 356. The Immigration Department established under the Immigration and Deportation Act controls all borders as provided in the Act and administers and regulates all ports of entry.
- 357. The Department of National Registration, Passport and Citizenship, issues national registration cards and passports to eligible individuals. It also processes citizenship applications and renunciation. Further, this Department is responsible for the registration of births, marriages and deaths.
- 359. establishes The Financial Intelligence Centre (FIC) established under the Financial Intelligence Centre Act No. 46 of 2010. The mandate of FIC is to monitor the financial systems and potential trade-based money laundering mechanisms in the country, as well as to coordinate with other States on

suspicious financial transactions. This anti-money laundering initiative is expected to combat financing of terrorism.

360. The Drug Enforcement Commission is one of the investigative Commissions established under Article 235 of the Constitution. The mandate of the Commission is to prevent and control illegal cultivation, production, trafficking, abuse of narcotic drugs and psychotropic substances as well as to prohibit and prevent money laundering activities.
361. In response to the United Nations Global Counter Terrorism Strategy which envisions effective counter terrorism measures at State level through a multi-agency approach, the State party established and operationalised the National Anti-Terrorism Centre (NATC) in February, 2017. Its roles, among others, are to coordinate the detection, response to, mitigation and investigation of terrorist incidences and related threats in the State party. Further, NATC collaborates with various stakeholders on implementation of counter terrorism and proliferation plans and on the detection and prosecution of terrorists at national, regional, and global level.

Policies and Programmes

362. The State party recognises that terrorism is a global phenomenon that requires a multifaceted approach to counter. In this regard, the State party continues to contribute to the global efforts to counter the threat of terrorism in accordance with the principles of the United Nations Security Council in the maintenance of international peace and security. To demonstrate its commitment, the State party is a signatory to regional and international protocols and conventions aimed at countering the threat of terrorism.
363. The Integrated National Registration Information System (INRIS) is aimed at enhancing the security of national identity documents by embedding biometrics, providing an interface with other identity systems and creating a linkage between civil registration and national registration.
364. The State party collaborates with co-operating partners in the promotion of peace and security. For instance, an initiative called “Comprehensive Refugee Response Framework” was implemented to promote self-reliance and sustainable livelihoods amongst the refugees in the country.

365. The State party also implemented a National Referral Mechanism for the protection of vulnerable migrants.
366. The State party established Matampala Refugee camp in Nchelenge district in 2018 as part of an integration measure to enable refugees to develop their livelihood and contribute to local development in the area. The State party through the office of the Commissioner for Refugees supported by United Nations High Commission for Refugees and other United Nations agencies and partners coordinates and leads this settlement by providing protection, shelter, health services and basic education.

Administrative Measures

367. The Central Joint Operation Committee is one of the mechanisms through which defence and security matters are coordinated at national level.
368. The Provincial Joint Operation Committee coordinates defence and security matters within a province through co-operation and co-ordination with the corresponding neighbouring country's similar structure. Unresolved and outstanding issues from this mechanism are escalated to the Central Joint Operations Committee and the respective Joint Permanent Commission on Defence and Security.
369. Joint Permanent Commission on Defence and Security is a mechanism through which defence and security matters with respective neighbouring countries are addressed. On the other hand, matters with countries which do not share boundaries with the State party are resolved through the Joint Permanent Commission on Co-operation where such mechanisms have been established.
370. The State party has embraced the use of technology to enhance security in the nation. This is being implemented through, among others, the implementation of the Safe City Project which is aimed at integrating ICT in provision of national security services.

Challenges

371. An Influx of foreign nationals has contributed to increase in crime rate and emergence of new crimes which threaten the security and peace of the State party. To address this challenge, the State party is undertaking long term sustainability measures such as increasing community police, enhancing

infrastructural support and human capacities to improve ratio of police officers to population.

ARTICLE 24: RIGHT TO A SATISFACTORY ENVIRONMENT

373. The State party has been implementing policies to ensure a safe, clean and sustainable environment which is integral to the full enjoyment of a wide range of human rights, including the rights to life, health, food, water and sanitation. Without a healthy environment, we are unable to fulfill our aspirations or live at a level commensurate with minimum standards of human dignity.

Legislative Measures

374. Article 255 of the Constitution governs the management and development of the State party's environmental resources. These principles include the polluter pays principle, the promotion of the saving energy and the sustainable use of renewable energy sources; public participation in the development of environmental laws, policies, programmes and plans as well as access to environmental information to enable people to protect, preserve and conserve the environment.
375. The Constitution also places a duty on the State party to promote an appropriate environment management system, encourage public participation and ensure that the environmental standards enforced in Zambia are of essential benefit to citizens. Article 256 of the Constitution further places a duty on citizens to co-operate with State institutions to maintain a clean, safe and healthy environment.
376. The Environmental Management Act guarantees the right of every person to a clean, safe and healthy environment. The Act is founded upon a number of principles, most notably that the environment is the common heritage of both present and future generations, the involvement of the people in the development of policies, plans and programmes for environmental management and access to environmental information to enable citizens to make informed choices that encourage improved performance by industry and the government.
377. Section 23 of the Environmental Management Act provides that strategic environmental assessments must be conducted for any draft policy, programme or plan that could have an adverse effect on management and utilisation of the environment and natural resources management.

378. The Environmental Impact Assessment Regulations Statutory Instrument No. 28 of 1997 governs Environmental Impact Assessments (EIAs).. EIAs are required for any projects that are likely to have adverse environmental impacts. The law also makes it compulsory for public consultations to be held when large business projects are to be undertaken. Further, prior to initiating an activity listed in the schedules attached to the EIA Regulations, a developer must obtain an Environmental Authorisation from ZEMA, various permits for specific aspects of development planning and have had an EIA conducted.
379. Part IX of the EIA Regulations lays out specific penalties for non-compliance with any of its provisions, including: a failure to prepare and submit a Project Brief; failure to prepare and submit an environmental impact statement (EIS), making false statements in any environmental documentation; and non-compliance with any of the conditions contained in the Authorisation Permit.
379. The State party's economy is heavily dependent on mining and while the country is rich in mineral wealth and natural resources and generates an income from mining, mining and excavation have a number of adverse environmental impacts. The Mines and Minerals Development Act puts in place regulations for environmental protection in the mining sector.
380. The Water Resources Management Act provides for the ownership, control and use of water. Water resource management is delegated to Catchment Councils created under the Act. Further, it also provides for the equitable, reasonable and sustainable use of the State party's water resources.
381. The Mines and Minerals Development Act provides for the granting of mining rights, prospecting, mining, disposal of minerals, conservation and protection of air, water, soil, flora, fisheries and scenic attractions in or on the land over which the mining right is sought. It also provides for EIA, air quality and emission standards, storage, handling and processing of hazardous materials and regulates mine dumps. Specific guidelines for environmental protection in mining operations are contained in the Mines and Minerals (Environmental) Regulations of 1997.
382. The Solid Waste Regulation and Management Act provides for the sustainable regulation and management of solid waste; general and self-service solid waste services and incorporation of solid waste management companies . It also provides for the licensing and functions of solid waste service providers, operators and self -service solid waste providers.The Act further provides for the

regulation, operation, maintenance and construction of landfills and other disposal facilities as well as the setting and approval of tariffs for management of solid waste and provision of solid waste services.

Policies and Programmes

383. The National Policy on the Environment, 2009, is aimed at promoting sustainable environmental protection by providing a framework for the management of the environment and natural resources for the benefit of present and future generations. It also aims at addressing environmental challenges in Zambia such as climate change, deforestation, land degradation, loss of biological diversity, wildlife depletion and pollution.
384. Other important policies in this regard include the National Climate Change Policy, 2017 and the National Water Policy, 2010. The National Water Policy provides a framework for water resource management and endeavors to deal with the daunting challenges of poverty reduction. The National Climate Change Policy on the other hand introduces a well-structured and coordinated national strategy to effectively tackle the adverse effects of climate change.

Judicial Measures

385. A number of cases concerning pollution and its effects on the health of affected communities and on their socio-economic development have been brought before the courts in the State party. In particular, these cases have been brought against large private mining companies operating in the State party including Konkola Copper Mines (KCM) and Mopani Copper Mines (MCM).
386. Many of these lawsuits are based on the common law of tort and the infringement of civil rights due to the fact that socio-economic rights including the right to a satisfactory environment are still not provided for as justiciable rights in the Constitution.
387. In ***Nyasulu and Others v Konkola Copper Mines Plc and Others 2007/HP/1286 Unreported***, an action was brought against KCM by 2000 residents of Chingola. The Chingola mine operated by KCM was alleged to have discharged waste from its mining activities into a stream which happened to be the main source of water for the plaintiffs. The High Court ruled against KCM, holding that the company had deprived the plaintiffs of the fundamental right to life through its acts of gross negligence and blatant disregard for environmental

law. The court awarded the plaintiffs damages for the loss they suffered due to contamination of their water supply.

388. The case of **Geoffrey Elliam Mithi v Mopani Cooper Mines 2014/HB/48 High Court of Zambia (Unreported)** concerned the emission of sulphur dioxide in quantities that surpassed the prescribed limit caused by operations of the smelter at Mopani's Mufulira mine. The High Court found that the wife of the plaintiff died as a result of inhaling these toxic emissions and awarded damages of ZMW400,000 (the equivalent of US\$40,000) to the plaintiff.

Institutional Measures

389. The Ministry responsible for water development, sanitation and environmental protection and the Ministry responsible for lands and natural resources are mandated to ensure that the State party has in place appropriate institutional, legislative and policy frameworks to guide the management and development of the environment, heritage and natural resources in the State party for sustainable socio-economic development to benefit the present and future generations.
390. The Ministry responsible for mining, the Ministry responsible for energy, the Ministry responsible for water development and the Ministry responsible for labour have a duty to ensure that there is compliance with occupational health and safety standards in the mining sector.

ZEMA is the lead agency in the State party dealing with a range of environmental issues and the EIA process. It also identifies the projects, plans and policies that require an EIA and inspects and investigates business operations that may cause or do cause environmental damage. ZEMA plays an important role in disseminating information on the environment and adverse environmental impacts to the affected communities and the public at large. Section 9 of the Environmental Management Act sets out the functions of ZEMA which include: developing and enforcing measures to prevent and control pollution; developing guidelines and standards relating to environmental quality as well as promoting research and studies, including the impact of climate change on humans and the environment.

Challenges

391. At present, EIAs under the 1997 regulations lack a social impact assessment or human rights component to them. Many major developments, particularly in the mining and construction sectors have a negative impact on both the environment and human rights ,usually rural dwellers, living in locations where such projects are likely to be undertaken. To combat this, the State party has enacted legislation and policy as mentioned above that ensures that affected communities are consulted when large projects are likely to have a negative impact on their health, surroundings and education or property rights. The Environmental Management Act, for instance, contains provisions which state that social issues must be considered when conducting EIAs.
392. ZEMA has inadequate capacity to carry out its work effectively and efficiently. For instance, it has very little scientific and technical equipment and also inadequate human and financial resources. ZEMA also has inadequate capacity to deal with the effects of climate change.

PART B: THE PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS ON THE RIGHTS OF WOMEN IN AFRICA

394. The State party signed the Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa (hereinafter the "Protocol") on 3rd August, 2005, and ratified it on 2nd May, 2006. The Protocol came into force on 7th June 2006.
395. In compliance with Articles 26 of the Protocol and 62 of the African Charter, the State party hereby presents its initial report on the legislative, policy and other measures she has taken to uphold the rights of women, in fulfillment of her obligations covering the period June, 2006, to December, 2019.
396. This process entailed obtaining views from a wide variety of stakeholders who included: Government institutions, human rights institutions, CSOs and academia.

BACKGROUND INFORMATION

397. According to the Zambia Statistics Agency, women comprise approximately 51% of the country's population.

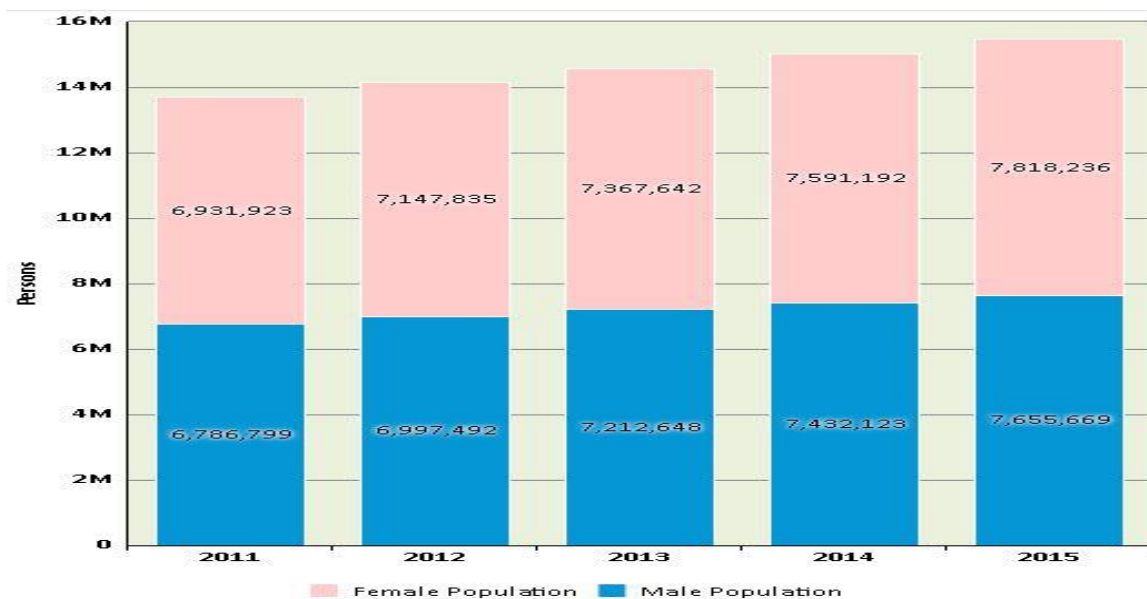
Table 1: Population Size by Sex, Residence and Province, 2000 and 2010

	2000				*2010			
	Female	Male	Total	% female	Female	Male	Total	% female
RESIDENCE								
Total Zambia	4,939	4,946	9,886	50.0	6,652	6,394	13,046	51.0
Rural	3,238	3,221	6,459	50.1	4,074	3,904	7,978	55.4
Urban	1,702	1,725	3,427	49.7	2,577	2,491	5,068	42.7
PROVINCE								
Central	502	511	1,012	49.6	641	627	1,268	50.6
Copperbelt	782	799	1,581	49.5	985	974	1,959	50.3
Eastern	657	649	1,306	50.3	872	836	1,708	51.1
Luapula	388	388	775	50.1	491	468	959	51.2
Lusaka	686	706	1,391	49.3	1,119	1,080	2,199	50.9
Northern	629	630	1,259	50.0	898	862	1,760	51.0
North Western	292	291	583	50.1	361	345	706	51.1
Southern	611	601	1,212	50.4	820	786	1,607	51.0
Western	393	372	765	51.4	465	417	882	52.7

Source: CSO, Census of Population and Housing, 2000 and 2010; Note: * Preliminary

Source: Central Statistical Office, Census of Population and Housing, 2000 and 2010

Figure 1.0 Population (male and female) 2011 - 2015.



Source: Central Statistical Office (<http://www.zamstats.gov.zm/>)

Women in Decision Making Positions

397. Historically, women in the State party have occupied an inferior position. Customary law, traditional beliefs and other historical factors have largely undermined the position of women. In addition to that, cultural beliefs and societal attitudes rooted in patriarchy further undervalue the education of women, consequently many women remain illiterate.
398. In spite of the historical disempowerment and disenfranchisement of women, the State party, since independence, has endeavoured to enhance the active participation of women in all spheres of the country's development. A key development during the UN Decade of Women was the State party's ratification of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1985.
399. Following the State party's ratification of CEDAW, a Women in Development Unit was created under the National Commission for Development Planning. The Unit was tasked to coordinate women's programmes in conjunction with other Government Ministries and Departments. Later, the Unit was upgraded to the 'Women in Development Division' (WIDD) and it became part of the Cabinet Office with its own Permanent Secretary and had power to vote on the national

budget. The mandate of the WIDD was essentially to ensure that gender was made part and parcel of the development process, to provide government with technical guidance on gender issues and to advocate for the enhancement of women's participation in the development of the State party.

400. The Fourth National Development Plan (1989-1993), included a chapter on Women for the first time in the history of national planning.
401. The women's movement in the State party has remained strong over the years, spearheaded byNGOCC, formed in 1985, which still maintains a valuable link between local NGOs and Government. This organisation through its members and non-members, have contributed significantly to the women's rights movement by promoting the implementation of global and regional standards on women's rights.
402. The first structure to handle women's issues within the State party was established in 1985. Over time, this structure, which started as a women's desk in the National Commission for Development Planning, evolved into a full-fledged Gender In Development Division (GIDD) in the Office of the President with authority to control its own budget in 1996. This was followed by putting in a place the first Strategic Plan for the Advancement of Women (1997-2000) and adoption of the first National Gender Policy in 2000. The mandate of GIDD was to coordinate the implementation of the National Gender Policy. GIDD was replaced by the Gender Division – Cabinet Office directly under the Office of the President.
403. Today, the status of women in the State party is still, to a large extent, characterised by disempowerment, underrepresentation in political decision-making as is evident from Table 2 below. However, the State party has adopted a number of measures to ensure that women enjoy equal rights to men in the State party's society despite the many challenges that threaten the achievement of substantive equality for all people of the State party.

Socio-economic Factors

404. The participation of women in the socio-economic development of the State party remains impeded due to a number of factors including lower levels of education, culture, limited access to and control over resources and low participation in the formal labour market.

405. According to ZDHS (2018), 44% of women and 38% of men have a primary education, and 48% of women and 58% of men have a secondary education or higher (an increase from 45% and 57%, respectively, since 2013-14 ZDHS). With regard to prevalence of HIV among adults ages 15 to 59 years, 14.9 percent among females and 9.5 percent among males are HIV positive. (ZAMPHIA 2015-2016).

Global Gender Gap

Table 2: Zambia 2015 Global Gender Gap Index (Selected Indicators)

Indicator	Female	Male	Female/Male Ratio	Global Rank
Professional & Technical Workers	31	69	0.45	116
Legislators, Senior Officials & managers	19	81	0.23	98
Estimated Earned Income	3,206	4,971	0.64	60
Wage Equality (for similar work)			0.82	3
Labour Force Participation	73	86	0.85	55
Literacy Rate	56	73	0.79	124
Enrolment in Primary	92	91	1.01	1
Enrolment in Secondary	-	-	-	-
Enrolment in Tertiary	2	3	0.46	132
Women in Parliament	13	87	0.14	110
Women in Ministerial Positions	20	80	0.25	62

Source: Global Gender Gap Index 2015

Legal and Policy Framework governing Women's Rights in Zambia

International Commitments

406. In addition to being party to the Protocol since 2nd May, 2006, the State party has signed, ratified or acceded to the following human rights instruments that promote gender equality:

Table 3: International Instruments Ratified by Zambia that Safeguard the Rights of Women

International instruments	Date of signature	Date of ratification/accession
Convention on the Elimination of All forms of Discrimination Against Women	17 th July, 1980	21 st June, 1985
Protocol to the United Nations Convention Against Transnational Organized Crime to Prevent, Suppress and Punish Trafficking in		24 th April, 2005

International instruments	Date of signature	Date of ratification/accession
Persons especially Women and Children (the Palermo Protocol)		
International Covenant on Civil and Political Rights (ICCPR)		10 th April, 1984
International Covenant on Economic Social and Cultural Rights (ICESCR)		10 th April, 1984
Declarations		
Beijing Declaration and Platform for Action		1995
Regional and sub-regional instruments	Date of signature	Date of ratification
The Southern Africa Development Community (SADC) Protocol on Gender and Development		26 th November, 2012
Protocol on the Prevention and Suppression of Sexual Violence against Women and Children	17 th July, 1980	
Maputo Protocol	3 rd August, 2005	2 nd May 2006
COMESA Protocol on the Free Movement of Persons, Labour, Services, the Right of Establishment and Residence		1984
COMESA Protocol on the Gradual Relaxation and Eventual Elimination of Visa Requirements		1984
Declarations		
Solemn Declaration on Gender Equality in Africa		6 th – 8 th July 2004

407. During the State party's Universal Periodic Review session in 2008, an open invitation was extended to all special mandate holders. Since then, three special mandate holders have undertaken missions to the State party including the United Nations Special Rapporteur on Violence against Women, its Causes and Consequences. Similar invitations were extended to the African Commission. Since then, the Special Rapporteur on Freedom of Expression and Access to Information and the African Commission Working Group on Extractive Industries, Human Rights and Environment have visited the State party.

National Legislation

408. The Constitution provides for the basic principles for the protection of fundamental human rights and freedoms which include non-discrimination, equality and equity before the law. It is an overarching framework for the

realisation of gender equality. Although it does not contain detailed and specific provisions on women's rights, it does guarantee equality and prohibits discrimination in all spheres.

409. The table below contains a brief summary of the principal legislation introduced by the State party to promote and protect women's rights:

Table 4: Summary of Key Legislation on Women's Rights in the State party

	Act	Purpose
1.	The Constitution	The supreme law of the land and upholds the fundamental principles with which all other laws in the State party must conform.
2	Anti-Gender Based Violence Act	To provide for the protection of victims of gender based violence.
3	Anti-Human Trafficking Act	To provide for the prohibition, prevention and prosecution of human trafficking cases.
4	Gender Equity and Equality Act	To provide for the achievement of gender equality between men and women by the taking of measures and making of strategic decisions in all spheres of life in order to ensure gender parity.
5	Intestate Succession Act	To provide for a uniform intestate succession law that will be applicable throughout the State party.
6	Local Courts Act Chapter 29 of the Laws of Zambia	To outline the jurisdiction and procedure of Local Courts which administer customary law.
7	Marriage Act	To provide for the solemnisation of marriages and validation of marriages that are already solemnised.
8	Matrimonial Causes Act	To provide for divorce and other matrimonial matters including the maintenance of a party to a marriage and for children of the family, settlement of property, dissolution or annulment of the marriage, custody or guardianship of children of the marriage to which the matrimonial proceedings relate and all other matters incidental to.
9	Penal Code Act	To provide for offences protecting women and children from indecent assault, sexual harassment, defilement and trafficking in persons.
10	Refugees Act	To provide for the recognition, protection and control of refugees and provide for the rights and responsibilities of

	Act	Purpose
		refugees.
11	Wills and Administration of Testate Estates Act	To simplify the law governing the making of wills, make provision for adequate financial and other provisions to be made for dependents in a will and provide for the administration of estates of persons dying having made a valid will.
12	Education Act	To provide for the domestication of the Convention on the rights of a child in relation to education.
13	Affiliation and Maintenance of Children Act Chapter 64 of the Laws of Zambia	To provide for women to make an application to Court for an affiliation and maintenance order for a child
14	Prisons Act	Provides for admission of an infant child of a woman prisoner into the prison with its mother.

National Policies

Table 5: Summary of Key Policies and Development Plans on Women's Rights in Zambia

Policy	Subject matter
National Gender Policy 2000, revised in 2014	Aimed at achieving full participation of both women and men in the development process as well as the attainment of equality and equity between the sexes through the employment of measures across a wide range of social and economic sectors.
National Gender Monitoring and Evaluation Plan (2011 – 2015)	Aimed at providing guidelines for the collection, analysis, use and dissemination of information. The objective was to enable the tracking of progress made in achieving gender equality and women's empowerment for enhanced and informed decision-making.
Ministry of Gender and Child Development (MGCD) Strategic Plan 2014 – 2016	Introduced to provide objectives and strategies for the fulfilment of the newly-constituted Ministry's mandate between 2014 and 2016.
Vision 2030	Articulates the aspiration of the people of the

	State party to, by 2030, live in a strong and dynamic middle-income industrial nation that provides opportunities for improving the well-being of all, embodying values of socio-economic justice, underpinned by the principle of gender responsive sustainable development, amongst other things.
7NDP Volume I	Reaffirms that gender equality is a cross-cutting and emerging issue which will be achieved by the State party through the maintenance and acceleration of efforts to improve gender responsiveness in all spheres, gender mainstreaming and implementing the National Gender Policy.
Medium Term Development Plans	The State party ensures that gender issues are taken into account when preparing National Development Plans by including a chapter on women and gender issues in which priorities for gender mainstreaming were identified. This was effected in the Fourth National Development Plan to the current Seventh National Development Plan.

Applicability of the Protocol

410. In the State party, international instruments have no direct application at the national level. They only become applicable or binding upon domestication. The Gender Equity and Equality Act domesticates the Protocol, CEDAW and the SADC Gender Protocol. The Gender Equity and Equality Act empowers women and seeks to achieve gender equality and equity.
411. In the case of ***Longwe v Intercontinental Hotel 1992/HP/765***, the petitioner cited a number of international instruments to which Zambia is a party including the African Charter on Human and Peoples' Rights and CEDAW. Musumali J. held that the ratification of international instruments by a State without reservations is clearly indicative of its willingness to be bound by those instruments. Moreover, when an issue comes before a court which is not covered by any domestic legislation of that state, that willingness to be bound would empower the court to take judicial notice of the Treaty or Convention to resolve the dispute.

412. In the case of ***Sata v Post Newspapers Ltd and Another [1995] HC 1***, the court made reference to international instruments, holding that the consideration of such decisions may help in the interpretation of domestic law within its local context and that the state of that domestic law may be different to a lesser or greater extent because of such interpretation.
413. Similarly, in ***Attorney-General v Clarke 96A/2004 [2008] SC 4***, the court also referred to two international instruments, one of which was the African Charter. It held that while agreeing that instruments to which Zambia is party can be taken into account when applying and construing national legislation, they have only persuasive value unless domesticated.
414. The State party enacted the Ratification of International Agreements Act No. 34 of 2016, which provides for the ratification of international agreements and the domestication process. Section 1 of the Act defines 'domestication' as giving legal effect to an international agreement or a part of an international agreement, through legislation or any other enforceable means.

Institutional Measures

415. A Parliamentary Committee on Legal Affairs, Human Rights, National Guidance, Gender Matters and Governance was established to monitor the effectiveness of measures taken by the State party to realise the rights of women and children. The Committee also makes recommendations based on those measures.
416. Women's Parliamentary Caucus collaborates with the State party for instance, in implementing interventions aimed at addressing the challenge of child marriage and problems associated with women's health and that of adolescents.
417. The Ministry responsible for gender, provides policy direction, guidance and leadership on gender-related matters. It is mandated to ensure the co-ordination and implementation of law and policy aimed at achieving gender equality and advancement of women. Other functions include: facilitating gender mainstreaming in national policies and programmes; providing technical guidance to and building the capacity of key stakeholders on gender-related matters; monitoring and evaluating progress on gender-related issues; facilitating the domestication of regional and international instruments on gender that the State party has signed and ratified into national laws as well as engaging in gender advocacy.

- 418. The Gender Equity and Equality Commission is a constitutional body established under Article 231 of the Constitution. Its mandate is to promote the attainment and mainstreaming of gender equality.
- 419. The Human Rights Commission is a constitutional body established under Article 125 of the Constitution. Its mandate is to promote and protect human rights for all people in the State party.
- 420. The Zambia Police Service is a creation of the Constitution under Article 193. The mandate of the Service, among other things, is to protect life and property, preserve peace and maintain law and order, to ensure the security of the people, detect and prevent crime and to uphold the bill of rights.
- 421. The Zambia Police Act Chapter 107 of the laws of Zambia, established the Victim Support Unit (VSUs) whose function is to investigate and offer support to victims of gender based violence, the majority of which are women and children.
- 422. During the period under review, 6 fast track Courts on Gender Based Violence (GBV) have been created by the State party in six provinces and it is expected that subsequent courts will be launched in other provinces to tackle GBV cases.
- 423. NPA created a specialised department dealing with Gender based violence. Prosecutors under this department are trained to prosecute GBV cases and how to deal with traumatised victims. The NPA has, further been decentralised and is now present in all the 10 provinces and in 53 districts of the State party.

Budget for Women

- 424. In 2011, the State party launched the Gender Responsive Budget Programme in conjunction with the United Nations Development Fund for Women (UNIFEM) aimed at ensuring equality in the budget.
- 425. There are specific budget allocations for certain campaigns and awareness-raising events that the State party spearheads and participates in such as the International Women's Day and International Day of the Girl Child. There is also a Women Economic Empowerment Fund which receives a modest portion of the annual budget. The State party has made efforts to increase general budgetary allocations to social and economic sectors that are essential to the realisation of women's rights including healthcare, education, agriculture and social protection.

426. The State party also ensures that the national budget is gender-sensitive through the Ministry responsible for gender.

Gender Mainstreaming

427. Section 2 of the Gender Equity and Equality Act defines gender mainstreaming, as ‘the process of identifying gender gaps and making the concerns and experiences of both sexes integral to the design, implementation, monitoring and evaluation of policies and programmes in all spheres of life so that both gender benefit equally’. The Act provides the overarching legal framework for gender mainstreaming in the State party. It mandates all public and private bodies to consider and promote gender equality by ensuring that gender issues are mainstreamed in laws, policies, budgets, programmes and strategies.
428. The State party has made progress in gender mainstreaming in various social and economic sectors and also partners with a number of local and international NGOs in the State party to mainstream gender. For instance, in 2016, the Ministry responsible for Gender, the Ministry responsible for Youth Sports & Child Development and the Ministry responsible for Community Development signed memoranda of understanding with several NGOs in order to strengthen gender mainstreaming.

Audit of Gender Laws

In light of its obligations under various treaties that guarantee women’s rights, the State party has reviewed and amended laws which provide for the rights of women. The State party conducted a legislative review of the CEDAW provisions that were to be incorporated in national legislation in order to inform the process of domesticating that treaty.

IMPLEMENTATION OF THE PROTOCOL

EQUALITY/NON-DISCRIMINATION

ARTICLE 2: ELIMINATION OF DISCRIMINATION AGAINST WOMEN

States parties shall combat all forms of discrimination against women through appropriate legislative, institutional and other measures.

Legislative Measures

429. The State party has committed to the elimination of all forms of discrimination against women. The Constitution upholds the equal worth of men and women and their right to freely participate in, determine and build a sustainable political, legal, economic and social order. Article 8(1)(d) of the Constitution provides for the national values and principles for the people of Zambia which include equality and non-discrimination. Article 11 of the Constitution provides that every person is entitled to fundamental rights and freedoms of the individual regardless of sex or marital status, subject to such limitations as indicated under the Bill of Rights.
430. Articles 23(1) and 23(2) **of the Constitution** prohibit the enactment of laws and the performance of any function of public office or authority that is discriminatory or has such effect. It specifically prohibits such discrimination on the grounds of sex or marital status. However, this proscription excludes laws concerning adoption, marriage, divorce, burial and devolution of property on death or other matters of personal law.
431. Article 127 of the Constitution provides for the establishment of the Constitutional Court which hears matters relating to interpretation, violation or contravention of the Constitution.
432. Article 173(1) of the Constitution provides the values and principles that form the foundation of the State party's public service. These include provision of

adequate and equal opportunities for the appointment, training and advancement of members of both genders and members of all ethnic groups.

- 433. Section 15 of the Gender Equity and Equality Act prohibits the discrimination of a person based on sex by another person, public or private body and discrimination against a woman for being pregnant or having given birth to a child. Part V of the Act provides for elimination of all forms of discrimination against women.
- 434. Section 108 (1) of the Industrial and Labour Relations Act precludes the termination of services of an employee or the imposition of any other penalty or disadvantage on any employee on the grounds of sex or marital status.
- 435. Section 19 of the Education Act prohibits discrimination in any manner by an educational institution against a learner.
- 436. The Persons with Disabilities Act prohibits discrimination against persons with disabilities on the grounds of gender. Section 4(j) of the Act provides for gender equality as one of the general principles applying to the protection of the rights of persons with disabilities.

Judicial Measures

- 437. In the case of *Mwewa and Others vs Attorney General and others* [2017] ZMHC 77, pursuant to Article 28 of the Constitution, the petitioners alleged that the Mental Disorders Act was unconstitutional and that it unjustifiably violated their right to dignity, personal liberty, protection from deprivation of property and the right of freedom from discrimination. The Court affirmed that all persons with mental disabilities should be treated humanely at all mental health facilities and that all persons with disabilities have a right to receive healthcare services without discrimination.
- 438. In the case of *Nawakwi v Attorney-General* [1991] ZMHC 6 the petitioner was a single mother. According to the impugned rule, certain forms had to be submitted by the father of her children in order to be endorsed by passport office. However, under the same rule, there is no such requirement for men applying for a passport for their children. The petitioner successfully challenged the requirement whose operation was held to amount to discrimination on the grounds of sex. Musumali J. held that discrimination on the grounds of gender had to be eliminated from society. As a result, procedures of obtaining

passports have been changed to allow women to apply for the passport for their children.

Institutional Measures

439. The State party has endeavoured to maintain and create necessary institutions to ensure that the rights of women against all forms of discrimination are protected and respected. The following are examples of institutions created by the State party:-

- (a) Parliamentary Committee on Legal Affairs, Human Rights, National Guidance, Gender Matters and Governance;
- (b) Women's Parliamentary Caucus;
- (c) The Zambia Police Service;
- (d) The Human Rights Commission;
- (e) NPA;
- (f) Fast Track Courts; and
- (g) Legal Aid Board.

Policies and Programmes

440. To further ensure the elimination of discrimination against women, the State party developed the National Gender Policy of 2000 (revised in 2014) which is aimed at achieving equality between men and women and mainstreaming gender in all spheres.

441. The State party launched the 'HeforShe' campaign in July, 2015 to engage citizens as agents of change for the achievement of women's rights and gender equality by interrogating patriarchal beliefs and attitudes. In particular, it aims to sensitise high-profile male leaders and encourage them to publicly take a stand

on women's rights. The 'HeForShe' campaign is used to raise awareness amongst the general public, engage prominent community leaders to champion women's rights and engage men in society to address these stereotypes and beliefs that keep women inferior to men.

Challenges

- 442. A key challenge to the implementation of the right against discrimination is a lack of awareness on the part of most of the State party's citizens on their rights, particularly women in rural areas .
- 443. Patriarchal attitudes rooted in cultural beliefs and traditions pervade the State party's society and make it difficult for women to be treated equally. Many men still view women as inferior.
- 444. The State party applies statutory law and customary law. Some operations of customary law often perpetuates discrimination against women and become a barrier to their *de facto* equality with men.
- 445. There is inadequate capacity on gender mainstreaming among **Ministries, Provinces and Spending Agencies**. The establishment of Gender Focal Point Persons which was meant to assist with gender mainstreaming in **Ministries, Provinces and Spending Agencies** has not worked well because it was not part of the key result areas for purposes of appraisal.
- 446. Inadequate funding poses a great challenge to the implementation of legislation and operationalisation of programmes and institutions such as the Gender Equity and Equality Commission aimed at eliminating discrimination against women. Most of the programmes in place are unsustainable and therefore lack continuity because they are donor-funded.

ARTICLE 3: THE RIGHT TO DIGNITY

- 447. The State party shall adopt and implement appropriate measures to prohibit any exploitation or degradation of women and ensure the protection of every

woman's right to respect for her dignity and protection of women from all forms of violence, particularly sexual and verbal violence.

Legislative Measures

448. Article 15 of the Constitution provides that no person shall be subjected to torture, or to inhuman or degrading punishment or other like treatment.
449. The Anti-Gender Based Violence Act also has provisions that have incorporated the right to dignity. The Act contains provisions which prohibit all forms of exploitation or degradation of women. The Act also proscribes gender based violence which by definition includes acts of sexual violence and verbal violence or abuse.
450. The Penal Code Act introduced the offence of sexual harassment and made indecent assault a felony. The Act also provides a custodial minimum sentence of 15 years for rape and 20 years for incest. The Table below further shows other sexual offences and penalties.

Table 12: Amendments to the Penal code with respect to sexual crimes under the Penal Code Act

Section	Offence	Minimum sentence
136	Unlawfully taking a child out of the custody of protection of the child's father, mother or guardian	7 years imprisonment
137	Unlawfully and indecently assaulting a child or other person	15 years imprisonment
138(1)	Unlawfully and carnally having knowledge of any child	15 years imprisonment
138(2)	Attempting to have carnal knowledge of any child	14 years imprisonment
138(3)	Prescribing the defilement of a child as a cure for an ailment	15 years imprisonment
138(4)	This section is applicable to a child above the age of 12 years-old who commits an offence under subsections 138(1) and 138(2)	community service or counselling as the court may determine, in the best interest of both children
139	Defiling a child or an imbecile or a person with mental illness	14 years imprisonment to life
142	Being the owner or occupier of	20 years imprisonment

	premises permitting the defilement of children on those premises	
144	Detaining any child or other person against that child or other person's will	20 years imprisonment
155	Having carnal knowledge of a child against the order of nature or causing a child to have carnal knowledge with an animal or permitting a male person to have carnal knowledge of a male child	25 years imprisonment
161	Being a female above 16 years of age who, with consent, permits her grandfather, father, brother, uncle, nephew or grandson to have carnal knowledge of her knowing that person to be a such relative	20 years imprisonment to life
177	Engaging a child or other person in pornography and selling such pornographic material	15 years imprisonment

451. Section 14(1) (d) of the Gender Equity and Equality Act provides that both sexes shall have equal access and rights to credit, capital, mortgages, security and training. Further, sections 14 (2) (a) and (b) of the Act provide for the legal capacity of a woman to conclude contracts, other agreements and to own property. Section 16 (1) of the Act places a duty on any person, public body or private body to uphold the rights of both sexes and to respect and safeguard the dignity of both sexes.
452. Section 32 of the Education Act provides for the protection against GBV. It provides for the protection of employees, teachers and learners at educational institutions as well as the establishment of mechanisms for dealing with GBV cases. The Act places an obligation on an education board or board of management at educational institutions to develop' procedures for preventing GBV against employees, teachers and learners.

Policies and Programmes

453. The State party together with the United Nations developed the Joint Programme on Gender-Based Violence from 2012 to 2016 to support the State party in its efforts to reduce the prevalence of gender based violence. The Programme aimed to establish an integrated multi-sectoral mechanism for the implementation of the Anti-Gender Based Violence Act. The Programme aimed to increase the role of the health sector, establish an appropriate justice or legal system to effectively implement the provisions of the Act, scale up of social protection systems for prevention and management of GBV and establish a justice or legal system to implement the Anti GBV Act. It also aimed to establish an effective co-ordination mechanism for an integrated GBV response. Since inception of the Programme, over 2000 GBV survivors and other vulnerable persons have been imbued with some practical skills and have had access to some start-up capital.

Challenges

454. The incidence of GBV in the State party is high and remains a cause of great concern. According to the Zambia Demographic Health Survey (ZDHS) of 2013-2014, 43% of women aged between 15 and 49 experienced physical violence at least once since the age of 15 and 37% experienced such violence within the 12 months preceding the Survey.
455. According to information from the Zambia Police Service, the cases of GBV have risen from 18088 in 2015 to 25121 in 2019. Further, majority of the victims of GBV are women and girls. For instance, in 2018, the VSU recorded 25121 cases of GBV and in 16787 cases, women and girls were victims representing 66.8 % of the cases.”

ARTICLE 4: THE RIGHTS TO LIFE, INTEGRITY AND SECURITY OF THE PERSON

456. Article 4 of the Protocol states that every woman shall be entitled to respect for her life and the integrity and security of her person. All forms of exploitation, cruel, inhuman, or degrading punishment and treatment shall be prohibited.

The State party has implemented the following measures to align itself with the Protocol:

Legislative Measures

457. Article 12 (1) of the Constitution, although not specific to women alone, provides that no person shall be deprived of his life intentionally except in execution of

the sentence of a court in respect of a criminal offence under the law in force in the State party of which he has been convicted.

- 458. Article 1 of the Constitution provides that the Constitution is the supreme law of the land and any other written law, customary law and customary practice that is inconsistent with its provisions is void to the extent of the inconsistency. This protects women from being victims of harmful cultural practices.
- 459. Section 3 of the the Anti-Human Trafficking Act prohibits trafficking of persons of either sex. It provides for medical care, psychological and legal assistance as well as family-tracing and skills-building and recreation for victims as well as shelters, safety, security and legal status. Further, section 3(3) of the Act criminalises cross-border human trafficking, for labour and sex trafficking including child sex trafficking.
- 460. Under the Anti-Gender Based Violence Act, victims can obtain protection orders which prohibit the other party from engaging in sexual conduct against the victim's consent.
- 461. Part V of the National Health Research Act provides for health research or experimentation on human participants and deals extensively on the issue of procedure and consent of the person.

Programmes and Policies

- 462. The State party in collaboration with CSOs has been carrying out sensitisation campaigns informing women about their rights and the mechanisms for making complaints on domestic violence and other forms of violence against them.

Other Measures

- 463. Although the death penalty still sits in the statute books of the State party, it has not been practiced for the past two decades. For pregnant women who are found guilty of offences which have a mandatory death sentence, life imprisonment is imposed, instead of the death sentence. Progressively, in October, 2016, Cabinet passed a resolution to support the United Nations Resolution to establish a Global Moratorium on the issue of death penalty.

Challenges

475. Violence against women in the State party has been exacerbated by patriarchal attitudes rooted in cultural beliefs and traditions which make it difficult for women to be treated equally. Many men still view women as inferior.

ARTICLE 5: ELIMINATION OF HARMFUL PRACTICES

Legislative Measures

476. Article 1 (1) of the Constitution provides that the Constitution is the supreme law of the State party and any other written law, customary law and customary practice that is inconsistent with its provisions is void to the extent of the inconsistency. Article 15 of the Constitution provides that no person shall be subjected to torture, or to inhuman or degrading punishment or other like treatment.
477. Section 2 of the Gender Equity and Equality Act defines “harmful practice” as any social, cultural or religious practice which undermines the dignity, health or liberty of a person or results in physical, sexual, emotional or psychological harm to a person. Further section 3(1) of the Anti-Gender Based Violence Act describes harmful practices such as forced virginity testing, female genital mutilation, pledging of a person for purposes of appeasing spirits, forced marriage, sexual cleansing, child marriage, forced spouse inheritance and sexual intercourse between persons within the prohibited relations of affinity or consanguinity as abuse. Under sections 28(3) and (4) of the Gender Equity and Equality Act, any person who commits, engages in, subjects another person to, or encourages the commission of a harmful practice is liable to a fine not exceeding three thousand penalty units or to a term of imprisonment for a period not exceeding five years, or to both.
478. Section 24 of the Anti-Gender Based Violence Act establishes shelters for victims and section 32 of the Act establishes a Fund meant to provide financial assistance to victims of gender-based violence.

Programmes and Policies

479. In May, 2012, the State party launched the National Guidelines for the Multi-Discipline Management of Survivors of GBV to ensure that police, health, legal, judiciary and social welfare personnel work together in responding to and tracking all cases of GBV.

480. The State party and other key stakeholders has set up One Stop Centres to provide integrated services for victims of GBV. These services include counselling, HIV testing, legal assistance, medical treatment for injuries and investigations.
481. VSUs have been set up at every police station in the State party to handle matters including those on GBV. The State party also established Sex Crimes Unit desks within the VSUs to further cater to the needs of victims of GBV, especially women and children. These units deal with all reported sexual violence cases at their station such as rape, defilement, incest and indecent assault.
482. The State party, in 2015, created the Gender-Based Crimes Unit (GBCU) to prosecute offences related to gender-based violence cases. It also offers victims and survivors access to specialised legal services.
483. The Judiciary has established Fast-track courts at the Magistrate Courts to expedite GBV cases and provide a user-friendly judicial mechanism for GBV victims to seek justice. So far, 6 fast track courts are operational.
484. The State party has been facilitating the training of Police officers, Magistrates, Prosecutors and Local Court Magistrates on issues related to property grabbing, spouse battering, sexual offenses and other forms of violence against women and girls.
485. The State party, in line with the provision of the Anti-Gender Based Violence Act, has established 3 shelters for victims of Gender Based Violence.
486. The State party launched the National Campaign to end child marriage in 2014 as an initial initiative towards the fight against child marriage. This was followed by the formulation and launch of the National Strategy for Ending Child Marriage in 2016.

Challenges

Most cases of GBV are either not reported or withdrawn as they are considered as family or private and in most cases the perpetrator is considered the breadwinner.

ARTICLE 6: RIGHTS RELATING TO MARRIAGE

487. Section 22 of the Gender Equity and Equality Act provides that a woman has, on an equal basis with a man, power to decide and act on all matters relating to marriage and family life, including, *inter alia*, the same right to freely choose a spouse and to enter into or leave a marriage.
488. Article 266 of the Constitution provides that a child is a person who has attained or is below the age of 18 years. Further, the Marriage Act sets the legal age for marriage at 21 years of age but also allows persons who are younger than 21 but no younger than 16 years to marry subject to written consent being given by a parent or guardian, otherwise the marriage will be void. However, a judge of the High Court can give consent to such a marriage following an application from the parties who wish to contract a marriage if the particular circumstances of the case are not contrary to public interest.
489. Under Section 18 of the Education Act it is an offence to marry or marry off a learner who is a child in an educational institution, or take a child out of school to be married. It further imposes a duty on school administrators to report cases of marriage involving a learner. Through this Act, the State party may also prosecute any parent or guardian that is found liable of perpetrating such discriminatory tendencies and any contraventions of this section carry a minimum sentence of 15 years' imprisonment upon conviction and possibly imprisonment for life.
490. Section 166 of the Penal Code provides for the offence of bigamy which carries a maximum sentence of 5 years imprisonment.
491. Section 38 of the Marriage Act makes it an offence for a person to contract a marriage under the Act while being married under customary law to another person or who, during the continuance of the marriage under the Act, contracts a customary marriage. That person shall be liable on conviction to a minimum sentence of 5 years' imprisonment. However, the section is not applicable to a person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of the subsequent marriage, was continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time. Section 39 provides that an accomplice to such an offence shall also face the same penalty upon conviction.

492. Section 29 of the Marriage Act mandates the Registrar General in the Department of National Registration, Citizenship and Passports to enter details of all marriages solemnised under the Act in the register of marriages.

Challenges

493. Under customary law, there is no minimum age for marriage. Instead, a person is considered ready for marriage upon the attainment of puberty. This predisposes girls to early marriages at a time when they are not fully developed and are incapable of making decisions and understanding the full consequences of marriage.
494. The Constitution provides for a dual legal system, that is, customary law and statutory law. Marriages contracted under customary law are potentially polygamous. This presents a challenge with regard to marriage, divorce and property ownership. Despite the existence of legislation addressing issues of discrimination against women, patriarchal practices persist under the guise of culture to perpetuate the subservient position of women in areas of personal law.

ARTICLE 7: SEPARATION, DIVORCE AND ANNULMENT OF MARRIAGE

Article 7 of the Protocol provides that a State party shall enact appropriate legislation to ensure that women and men enjoy the same rights in case of separation, divorce or annulment of marriage.

Legislative Measures

495. The State party has enacted appropriate legislation to ensure that women and men enjoy the same rights in case of separation, divorce or annulment of marriage. Section 22 (1) (a) of the Gender Equity and Equality Act provides that a woman has, on an equal basis with a man, power to decide and act on all matters relating to marriage and family life, including the same right to enter into or leave a marriage. In the Matrimonial Causes Act, the dissolution of marriage proceedings can be commenced by either party to the marriage.
496. In all matters concerning the child upon dissolution of a marriage, due regard is always given to the best interest of the child. The Affiliation and Maintenance of Children Act, provides for affiliation and maintenance orders that women can apply for. The court is equally empowered to make an order for affiliation or

custody of children according to section 11(2). The Adoption Act Chapter 54 of the Laws of Zambia, provides for adoption of children and prohibits the adoption of a female child where the sole applicant is male unless in justifiable special circumstances or where exceptional measures exist to the court's satisfaction.

Judicial Measures

497. Women in the State party faced challenges with regard to property settlement upon divorce. This is particularly so for marriages contracted under customary law as women are traditionally precluded from acquiring any property rights. The Matrimonial Causes Act provides for the sharing of property and maintenance of either spouse upon dissolution of the marriage. In the case of *Mwiya Vs Mwiya* (1977) Z.L.R 113. it was decided that, upon divorce, under Lozi traditional custom a spouse was only entitled to the household goods irrespective of the property bought in the course of marriage. However, in the case of *Rosemary Chibwe v Austin Chibwe*, (2000) ZMSC, the court held that each spouse despite being married under customary law is entitled to 50% of the property bought by the couple in the course of their marriage upon divorce. That decision reaffirmed that men and women are entitled to equal rights even in marriages contracted under customary law.

Challenges

498. Rural women and children still face challenges in accessing public services such as police, judicial and healthcare due to long distances.

ARTICLE 8: ACCESS TO JUSTICE AND EQUAL PROTECTION BEFORE THE LAW

499. Women and men are equal before the law and shall have the right to equal protection and benefit of the law. Access to Justice as a basic principle of the rule of law promulgates that each person has the right to equal access to justice and justice systems and to exercise their rights without any discrimination and control the abuse of power through a transparent and accessible process. The State party has made notable strides towards promoting access to justice for women through enactment of legislation.

Legislative Measures

500. Article 23 of the Constitution provides for equality before the law for both women and men. Article 28 mandates the High Court to hear any matter or to

make such order, issue such writs and give such directions as it may consider appropriate to enforce the Bill of Rights. Women, therefore, have the right to institute proceedings for violation of any of their rights as guaranteed under the Bill of Rights.

- 501. Section 15(1) of the Gender Equity and Equality Act prohibits discrimination of any sex. Section 15(3) provides that the courts shall take necessary measures to ensure that both sexes have equal and effective protection and equal benefit of the law without discrimination. This provision clearly shows the commitment by the State party to promote access to justice.
- 502. The Legal Aid Act creates the Legal Aid Board which provides free legal services to both women and men.

Administrative Measures

- 503. ZIALE provides advanced practical training in prosecution to prosecutors under the NPA and other law enforcement agencies.
- 504. NPA has put up a measure to ensure that all prosecutors under the institution have a law degree by 2021.
- 505. The State party has ensured that all training institutions for law enforcement agencies are adequately equipped with qualified personnel to give instructions in the area of human rights in line with the Protocol.

Institutional Measures

- 506. The State party has created an institutional framework for the enhancement of access to justice for women. NPA has a Gender-Based Crimes Unit intended to prosecute gender related matters. NPA has specially trained prosecutors to deal with sexual and GBV cases. To further increase access to justice, NPA has been decentralised to all the 10 provinces. The Zambia Police Service has also established the VSU which has become the first point of call for women who are victims of GBV.
- 507. The Legal Aid Board provides free legal services to both women and men.

Policies and Programmes

508. The State party has a National Legal Aid Policy of 2018 aims at providing accessible and quality legal aid to vulnerable groups in civil and criminal matters. In relation to women, this Policy enables access to legal representation in the courts of law through specially trained paralegals at all levels.
509. The State party in partnership with GIZ and CSOs through the Program for Legal Empowerment and Enhanced Justice Delivery (PLEED) seeks to enhance access to justice, especially for the poor and vulnerable, focused on legal aid, strengthening court administration and case management, and increase quality and efficiency in the criminal justice system. The same program has led to the creation of paralegal desks in a number of correctional facilities and police stations. The paralegal desks play an important role in that they provide legal advice to detainees regarding their right to legal representation.

Challenges

510. The biggest challenge to access to justice for women remains the lack of information on the accessibility of justice systems. Many women have no knowledge of the existence of institutions such as the Legal Aid Board, VSU and Gender Based Crime Unit which are in existence to deal with various issues relating to women.
511. Physical access to courts poses some difficulties for rural women who have to travel long distances coupled with the costs of travelling to courts, securing counsel, paying legal fees or accessing legal aid.
512. Inadequate funding to institutions providing legal aid services makes it difficult for the institutions to fully accommodate and deal with all matters brought before such institutions.

ARTICLE 9: RIGHT TO PARTICIPATION IN THE POLITICAL AND DECISION MAKING PROCESS

Legislative Measures

513. Article 45(1)(a)(d) of the Constitution provides that electoral systems for the election of President, Member of Parliament or councillor shall ensure that citizens are free to exercise their political rights and that there is gender equity in the National Assembly or council. Further, Article 69(1) of the Constitution

gives powers to the President to nominate a person as Member of Parliament where he considers it necessary to enhance the representation of special interests, skills or gender in the National Assembly.

- 514. Article 259 (1)(b) of the Constitution provides that where a person is empowered to make a nomination or an appointment to a public office, the person shall ensure that 50% of each gender is nominated or appointed from the total available positions, unless it is not practicable to do so.
- 515. Section 24 of the Gender Equity and Equality Act places a responsibility on the Ministry responsible for gender to ensure the equal participation of both sexes in decision making by formulating and implementing policies, strategies and programmes for building the capacity of women to participate effectively in decision making through leadership and gender-sensitive training and mentoring, as well as provide support structures for women in decision making positions and change discriminatory attitudes and norms of decision making structures and procedures.
- 516. Section 29 (1) of the Gender Equity and Equality Act provides that a woman has, on an equal basis with a man, the same right to vote in elections and referenda, participate in public decision, hold public office and represent the Government at international level.

Policies and Programmes

- 517. The State party in partnership with various stakeholders from civil society have undertaken programmes to sensitise and build capacity in women to participate in local government and parliamentary elections, such as, the Vote for Women Campaigns.
- 518. The State party has undertaken various campaign strategy programmes. Examples include 'Count Her In' campaign strategy of 2014-2016 which was launched by the State party to support female electoral candidates by training them on how to conduct campaigns, how to assert themselves and encourage political parties to adopt female candidates. The State party in conjunction with cooperating partners and CSOs embarked on a project called "The Girls Leadership Program" with the aim of reducing social economic barriers faced by young women and girls in order to enhance their ability to participate in leadership and decision making.

Challenges

519. Hindrance to women's political participation and decision making is exacerbated by societal attitudes and gender stereotypes that do not perceive women as leaders. This is compounded by inadequate financial resources, low levels of education and other resources to help women compete favourably with their male counterparts.

ARTICLE 10: RIGHT TO PEACE

520. The State party has enjoyed peace since attaining independence in 1964. This is attributed to good neighbourliness and resolving disputes diplomatically. In addition, successful Governments in the State party have been involved in conflict resolution and peace building. The State party has successfully held democratic elections and has had smooth transfer of power since independence.

Legislative Measures

521. Article 192(2) of the Constitution establishes the Defence Force mandated to preserve and defend the sovereignty and territorial integrity of the Republic; foster harmony and understanding among the Zambia Army, Zambia Air Force, Zambia National Service and members of society; and co-operate with State organs and State institutions in times of public emergencies and national disasters.
522. Article 193(2) of the Constitution establishes the Zambia Police Service which is mandated to preserve peace and maintain law and order, uphold the Bill of Rights, ensure the security of the people and detect and prevent crime.
523. Similarly, the Defence Act seeks to ensure defence of Zambia's sovereignty and territorial integrity in order to guarantee the national peace and security of her citizens and residents. It also provides that foreign nationals and other entities intending to operate in Zambia must adhere to national laws.
524. Section 14 of the Gender Equity and Equality Act provides for the promotion of gender equity and equality in all spheres of human endeavour. This permeates into the security wings and defence forces including the role of upholding peace and stability.

525. Section 53 of the Refugees Act provides that the Commissioner for Refugees shall ensure that specific measures are taken to ensure the safety of women and children seeking asylum status at all times during their stay in their designated area.
526. Section 113 of the Electoral Process Act provides that one of the mandates of the Electoral Commission of Zambia is to manage electoral conflicts and resolve disputes. This includes taking complaints, through its Conflict Management Committees at national and district levels for a range of electoral conflicts including those that result in violence.

Policies and Programmes

527. The State party continues to contribute to international and regional peacekeeping operations and following the State party's adoption of United Nations Security Council Resolution No. 1325 (2000) on Women, Peace and Security, women have been integrated into peace-keeping operations resulting in a shift in policy to consider women for combat roles. Since then, women have ventured into more male-dominated fields relating to peace and security.
528. The State party has recognised the need for equal and full participation of women and men at all levels of national development. To attain its vision of full gender equality, the State party adopted and is implementing the National Gender Policy.
529. The State party has also mainstreamed gender issues in the National Development Plans to ensure the vision of integrating gender equity and equality in the socio-economic development process by 2030.

Administrative Measures

530. The appointment of Gender Focal Persons in all Ministries, Provinces and Spending Agencies also saw their installation in the Defence Wings.
531. Further, the State party has been providing training on GBV to security personnel and other stakeholders including gender training for personnel deployed to peacekeeping missions. It has also incorporated gender and human rights education as part of military training.

ARTICLE 11: PROTECTION OF WOMEN IN ARMED CONFLICTS

532. Refugees in the State party originate from across Africa, and are usually welcomed and gladly hosted. As at 2019, the State party was hosting about 80,700 refugees, according to statistics from the Office of the Commissioner for Refugees. Refugees, particularly female were forced to migrate from their countries of origin due to various reasons such as war and political conflicts. Some are reported to have experienced different forms of violence with the most pronounced being sexual and GBV.

Legislative Measures

533. The Refugees Act was enacted to, *inter alia*, domesticate the United Nations Convention Relating to the Status of Refugees 1951 together with its 1967 Protocol Relating to the Status of Refugees and the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa. The 1951 Convention is premised on the principle of “*Non-refoulement*” which means that no person can be sent back to a country of origin where they would be in likely danger of persecution or human rights violations. Section 13 of the Refugees Act, recognises refugees. Part IV of the Act provides for the rights and duties of recognised refugees, which include the rights to freedom of the person, life, security of the person and protection from inhuman treatment. The Commissioner for Refugees is mandated to protect and assist vulnerable asylum seekers and refugees, especially women and children, and ensure that specific measures are taken to ensure the safety of women and children seeking asylum status, at all times during their stay in designated areas.
534. Section 31 of the Immigration and Deportation Act provides for the issuance of permits for asylum seekers. Further, section 15 of the Refugees Act provides for remedies for asylum seekers whose applications for asylum are not approved by the appointed Refugees Status Determination Committee.
535. Section 14 of the Defence Act prohibits a child ‘under the apparent age of 18’ from being recruited into the armed forces without the consent of a parent, guardian or local District Secretary.
536. The Gender Equity and Equality Act provides for the elimination of discrimination against women which includes refugees within the State party’s territory. It prohibits harassment, victimisation and harmful social, cultural and religious practices.

Institutional Measures

537. The State party has various institutions that are strategically set out to promote and protect the rights of women in armed conflicts. These institutions, include:
- (a) VSUs ;
 - (b) Human Rights Commission which is mandated to promote and protect human rights for all people in the State party.
 - (c) Child Protection Unit which solely looks at offences committed by and against children in conjunction with the Ministry responsible for child development;
 - (d) Office of the Commissioner for Refugees which is mandated to provide protection and assistance to all asylum seekers and refugees in order to contribute to their general welfare and maintain internal security; and
 - (e) Department of Immigration which is responsible for regulating the movement of persons entering and leaving the country as well as controlling the stay of immigrants and visitors so as to contribute to internal peace and the socio-economic wellbeing of the people of the State party .

Programmes and Policies

538. Since 2015, the State party through the Local Integration embarked on a program at ensuring that refugees are assimilated into the State party's communities or be repatriated. Based on the pledge made by the State party, a total of 23,000 applications from former refugees have been received out of which 3,018 former Angolan and Rwandan refugees have been successfully integrated into the local community.
539. The State party has put in place a National Resettlement Policy which is meant to help provide a mechanism for dealing with both involuntary and voluntary resettlement. It sets out principles, objectives and measures for dealing with resettlement as strategy for rural development and as a response to internal population displacements.

540. The State party conducts public awareness programmes on matters relating to the protection of women in armed conflicts, asylum seekers, internally displaced persons and child soldiers. For instance, the State party has been consistently commemorating the International Refugee Day during which issues to do with the rights of women and children affected by armed conflicts are brought to the fore.

Challenges

541. Inadequate funding and coordinated structures in Resettlement Schemes which are expected to provide services to resettled victims has weakened the capacity of the State party to ensure better protection for female refugees.
542. Physical access to the institutions which promote and protect refugee rights is difficult for refugees and asylum seekers located in rural areas because of vast distances. For example, the Committee on Asylum Seekers only has one office in Lusaka, while the Department of Resettlement is only represented in provincial centres.

ARTICLE 12: RIGHT TO EDUCATION AND TRAINING

Legislative measures

543. The Education Act prohibits an educational institution from discriminating against any learner in any form. Section 25 of the Act provides that a learner who falls pregnant and a learner who impregnates a female learner at an educational institution must be readmitted to the institution once the baby has been delivered. Failing to readmit a learner or preventing readmission amounts to an offence under the Act. The Act also makes it an offence to prevent the enrolment or withdrawal of a learner of school-going age from school without reasonable excuse. Section 18(1) of the Education Act provides that subject to the Constitution and any other written law, a learner who is a child shall not contract any form of marriage.
544. Section 31 of the Education Act provides that the Minister responsible for general education must promote equity with respect to accessing, participating in and completing education at all levels irrespective of gender. Moreover, an education board or board of management at a school shall develop and

implement plans to ensure gender equity in the education system and ensure that both the curriculum and associated teaching materials at an educational institution are gender sensitive. This section also provides that gender issues and gender sensitive teaching methodologies must be made an integral part of the training of teachers.

545. Under sections 25 and 30 of the Gender Equity and Equality Act, women have, on an equal basis with men, the same right to education and have the right not to be discriminated against in their access to, participation in and completion of education and training. Further, the Minister responsible for education in consultation with other relevant ministers is tasked to implement measures that ensure gender sensitivity in the curriculum, eliminate barriers to women's access to and participation in education on an equal basis with men and facilitate the empowerment of girls and women as well as their progression through the education system.

Administrative Measures

There are no administrative measures to report on.

Policies and Programmes

546. The National Education Policy of 1996 has the overall aim of liberalising and decentralising the education system in accordance with the democratic principles of local governance. The Policy states that the Government is the custodian of the human rights of all individuals, including their right to education. It also contains specific provisions aimed at eliminating factors that hinder girls' access to, progression through and completion of education at schools and colleges in the State party. In line with the Policy, both female and male students are to be treated as equal beneficiaries and participants at all levels of education.
547. In terms of gender parity index, in 2015 there were more boys attending primary school with a GPI of 0.99 while in 2016, there were more girls attending primary school with a GPI of 1.1. At secondary level, there were more boys than girls attending school in both 2015 and 2016 with a GPI of 0.84 and 0.96 respectively. This shows that girls are still disadvantaged as compared to boys in the education system of the State party.

548. The State party has partnered with various civil society groups to promote female education. For example, the Campaign for Female Education was launched in 2001 and by 2017, it was working in 44 districts and was in partnership with 1,165 schools where it was providing holistic and targeted support for girls to go to school, covering needs that included school fees, uniforms, pens, boarding fees and disability aids.
549. The Girl's Education and Women's Empowerment and Livelihoods (GEWEL) project by the World Bank has the Keeping of Girls in School bursary which helps girls complete their secondary education and women living in rural areas in the State party take up economically productive activities.

Challenges

550. Whilst the State party has made strides in infrastructure development including building of schools, it is still faced with inadequate infrastructure to fully accommodate women and girls. This is exacerbated by the lingering stereotype that has traditionally favored boys schooling to that of a girl child.
551. Whereas the State party is in partnership with her cooperating partners to ensure girls fully participate in school programmes by providing sanitary material during their menstrual cycle, financial constraints have inhibited the State party to provide the service to all female learners in the country.
552. Pregnancy, early marriage and poverty are other serious challenges girls in the State party face in staying in school according to the Central Statistics Report on Analysing and Presenting Statistics with a Gender Lens; Women and Men in Zambia.

ARTICLE 13: ECONOMIC AND SOCIAL WELFARE RIGHTS

Article 13 - On the right to economic and social welfare rights, the Protocol States that "States Parties shall adopt and enforce legislative and other measures to guarantee women equal opportunities in work and career advancement and other economic opportunities."

553. The 2012 Labour Force Survey indicates that the employment-to-population ratio of the female population in the State party is lower at 69 percent compared to 71 percent of the male population. Of the 5,966,199 economically active

persons in both urban and rural areas, 52 percent were females and 48 percent were males. The wage gap between both sexes in the State party remains quite wide. In this regard, the State Party has introduced a number of measures specifically aimed at encouraging and supporting women to get employment in skilled labour, in order to economically empower them and also ensure they are protected in the workplace.

554. To implement this provision of the Protocol, the State party has put in place the following measures:

Legislative Measures

555. Article 259 of the Constitution on Nominations and Appointments provides that where a person is empowered to make a nomination or an appointment, that person shall ensure that 50% of each gender is nominated or appointed from the total available positions unless it is not practicable to do so.
556. Article 24(1) of the Constitution secures the rights of girls not to be exploited or forced into labour that interferes with their education or health. It provides that ‘a young person shall not be employed and shall in no case be caused or permitted to engage in any occupation or employment which would prejudice his health or education or interfere with his physical, mental or moral development.’
557. Section 41 of the Employment Code Act provides that every female employee who has completed at least two years of continuous service with her employer from the date of first engagement or since the last maternity leave taken, as the case may be, shall, on production of a medical certificate as to her pregnancy signed by a registered medical practitioner, be entitled to maternity leave of fourteen weeks with full pay. Section 5 of the Act prohibits the termination of the services of an employee or imposition of any other penalty or disadvantage on an employee on the grounds of, *inter alia*, sex, pregnancy or marital status.
558. Section 31 of the Gender Equity and Equality Act provides that a woman has, on an equal basis with a man, the same right to access employment opportunities and work in all sectors of the economy. Among other things provided for under this section is that an employer shall not discriminate against a woman by dismissing or demoting the woman on the basis of sex, marriage, disability, pregnancy or maternity leave or subject the woman to any other disadvantage in employment.

559. The Citizen Economic Empowerment Act provides for, *inter alia*, women to promote gender-equality in accessing, owning, managing, controlling and exploiting economic resources, remove social customs, statutory provisions or other practices that limit access to any particular gender to skills training that is essential for effective participation in the economic sector. The Act also promotes the employment of both gender by removing structural and discriminatory constraints that hinder any particular gender from employment opportunities and in so doing ensure equitable income distribution.

Policies and Programmes

560. As contained in its Vision 2030, the State party has a Vision on Gender Equality aimed at promoting gender equity and equality in the socio-economic development by 2030. This Vision is being realised through national development plans. One of the targets of this Vision, is to reduce and ultimately eliminate gender imbalances and inadequacies associated with the provision of education, training and development.
561. The Fourth Pillar of the 7NDP is *Reducing Developmental Inequalities*. One of the strategies of this Pillar includes reducing gender inequalities by addressing the gender gap and structural impediments which perpetuate gender inequality in the State party. Other interventions aimed at addressing low levels of women in decision-making and employment includes, the use of collaboration and a holistic multi-sectoral approach to tackle the inequality gap by scaling-up women's economic empowerment programmes as well as affirmative action for women.
562. The Revised National Gender Policy was launched in 2014. The Policy aims at ensuring the attainment of gender equality in the development process by redressing the existing gender imbalances. It also provides for equal opportunities for women to actively participate, contribute and equitably benefit from national development. The Policy also puts in place special measures aimed at promoting the employment of women at higher levels, which includes the encouragement of girls and women to enrol in male dominated education courses (such as sciences and mathematics) in order to have a pool of appropriately qualified women for positions in technical fields and senior management levels.
563. In 2005, the State party adopted the first National Employment and Labour Market Policy with the overall objective to create adequate and quality jobs

under conditions that ensure adequate income and protection of workers' basic rights. The Policy has since been reviewed and the Revised National Employment and Labour Market Policy was launched in 2019. The revised 2019 Policy focuses on promoting productive and decent work for all by highlighting key priorities necessary for the creation of more and better jobs.

- 564. The State party launched and is implementing the Women at Work Project which promotes gender equality, women empowerment and leadership in both the public and private sectors.
- 565. Other programmes that are helping to economically empower women include the Social Cash Transfer programme under the Ministry responsible for community development and social services and the Multiple Categorical Targeting Scheme, which targets households headed by women or elderly persons with one orphan or households with at least one person with a disability.
- 566. Through the Ministry responsible for education, valuable assistance is also rendered to vulnerable women in the form of educational support for primary and secondary levels, health support, food, beddings and clothing through the PWAS. PWAS targets vulnerable people who are not supported by families or other organisations including the aged, persons with disabilities, terminally-ill, female headed-households and child-headed households.

Challenges

- 567. The State party is aware that unbalanced power relations between women and men at different levels remain impediments to the advancement of women. Women in the State party have fewer decision-making positions compared to men at all levels. Women unemployment and poverty levels also are the highest. Women also have lower levels of access to credit, technology, land and extension services, which constrains their potential and productivity.
- 568. According to the 2012 Labour Force Survey, women play a critical role in sustaining a productive agricultural sector through the provision of 60.6 percent of labour but they continue to experience unequal access to and control over important productive resources such as land and other inputs. This limits their ability to move beyond subsistence agriculture due to limited access to benefits accruing from their labour input during production. In wage employment,

women are concentrated in the lowest paying sectors and non-technical jobs, which are linked to their lower education levels.

569. In spite of the issuance of the Cabinet Minute Circular to all institutions to budget for gender mainstreaming activities, there are still a number of policies and strategies on gender which are yet to be mainstreamed. This deficiency in the enabling policy framework is primarily attributed to a lack of understanding of gender and gender mainstreaming by stakeholders.
570. There is also a general lack of appreciation by stakeholders on the importance of gender issues which translates into a reluctance to properly implement gender mainstreaming strategies and activities and participate in the development of gender programmes.
571. Many female entrepreneurs do not formally register their businesses and as a result, find it difficult to obtain financing and essential business information to grow their businesses. They also struggle to obtain technical skills training and access credit due to limited number of financial Institutions in the State party that can cater for their needs coupled with high interest rates and generally their lack of collateral. Moreover, they are further burdened by many other responsibilities such as household work and family care which makes it more difficult for them to scale up their businesses and productivity or profit.
572. At present, economic, social and cultural rights are not justiciable in the State party. As was mentioned in Part A of this Report, the Bill of Rights in 2016 was subjected to a Referendum in order to provide for justiciable economic, social and cultural rights. Unfortunately, the Referendum was not successful and as such, economic, social, and cultural rights still cannot be enforced through the courts of law.
573. The non-operationalisation of the Gender Equity and Equality Commission is a hindrance to ensuring that economic empowerment programmes contribute to elevating the status of women in both the public and private sectors.
574. Women in the State party dominate the informal business sector and in particular, run the majority of micro-businesses. A 2012 employment survey found that 84% of female employment is in the informal sector. Among the female population in the informal sector, 70% have never received education or only have a primary level of education (compared to 59% for male workers).

ARTICLE 14: HEALTH AND REPRODUCTIVE RIGHTS

Article 14 of the Protocol provides that, “State Parties shall ensure that the right to health of women, including sexual and reproductive health is respected and promoted.” To implement this provision of the Protocol, the State party has implemented the following measures:

ARTICLE 14(1)(a): THE RIGHTS OF WOMEN TO CONTROL THEIR FERTILITY

Legislative Measures

575. Section 21 of the Gender Equity and Equality Act provides for the Sexual and Reproductive Rights of women including the right to choose the number of children, when to bear the children and to control their fertility. The Act also provides for the right to adequate sexual and reproductive health, which includes the right to access sexual and reproductive health services, access family planning services, be protected from STIs, reproductive rights education and choose an appropriate method of contraception.

Policies and Programmes

576. The State party has put in place the National Family Planning Scale-Up Plan (2013-2020), aimed at increasing the national contraceptive prevalence from 33% to 58%. It also aims at reducing gaps in family planning from 22% to 14% by the year 2020. So far, the unmet need for contraceptives at the national level is declining. However, available data indicates that the rates are still quite high in rural areas (24%) as opposed to 17% in urban areas.
577. To ensure the right to contraceptive information and services, in 2006, the State party published the Zambia Family Planning National Guidelines and Protocols to offer guidance for health-care workers on how to provide quality family planning services.
578. The State party put in place a Reproductive, Maternal, Newborn Child, Adolescent Health and Nutrition Communication and Advocacy Strategy (RMNCAH-N) 2018 – 2021 to increase awareness and the level of knowledge in the community on RMNCAH-N continuum of care which includes promotive, preventive, curative, rehabilitative and palliative care. The Strategy also seeks to increase the proportion of national level policy makers’ knowledge on the socio-

economic significance of RMNCAH-N and allocating adequate resources to meet the needs of the people.

Further, communication is an important input into tackling sexual and reproductive health issues including deteriorating indicators, unmet need for RMNCAH-N, poor utilisation of available services as well as weak dissemination of existing policies and guidelines to the lower levels.

579. The State party trains Community-Based Distributors (CBDs) to improve access to family planning services amongst segments of society that are hardest to reach including rural communities, the poor and vulnerable. The State party also facilitates the provision of selected injectable contraceptives alongside other family planning methods by CBDs.
580. Maternal mortality in the State party reduced between 2007 and 2014 from 591 deaths per 100 000 to 398 deaths per 100 000 live births. However, the State party is committed to further reducing maternal mortality to 100 deaths per 100,000 live births by 2021, as one of the goals as articulated in the National Health Strategic Plan (2017 – 2021). The State party with support from its cooperating partners is implementing other interventions outlined in the Plan including maternal and perinatal death surveillance and response, midwifery training and emergency obstetric and new-born care.
581. The State party has introduced Safe Motherhood Action Groups (SMAGs) to assist pregnant women in accessing antenatal, postnatal and nutrition services. The State party has embarked on providing training of health care providers in matters of reproductive health. Moreover, there has also been the introduction of mother and child health units in health facilities and 196 new midwives were recruited in 2016 plus an additional 88 midwifery training graduates in 2017 to alleviate staff shortages.
582. The Ministry responsible for health has created a Department of Health Promotion, Environment and Social Determinants to engage with stakeholders and build coalitions amongst the media, traditional leaders, marriage counsellors and NGOs.

Challenges

583. The high incidence of early, forced, child marriages in the country exposes girls to many reproductive health risks such as early sexual debut, teenage

pregnancy including complications in pregnancy and child birth (which increases maternal mortality and morbidity), STIs including HIV/AIDS.

584. The decision-making power of women as regards their reproductive health remains very limited because of patriarchy, which informs the social norms, perceptions, beliefs, values and attitudes. Therefore, they often have no control over how many children they can have and in the case of adolescent girls, they face a challenge to access sexual and reproductive health information and services.
585. There are significant inequalities in contraceptive use in the State party. While urban and educated women seem to have easy access to contraceptives, rural and uneducated women face challenges. In rural areas challenges such as long distances to health facilities, traditional barriers such as male spouses prohibiting women from using contraceptives and desire to have children hinder women from making a choice to use family planning services.

ARTICLE 14(1) (D): RIGHTS OF WOMEN TO SELF-PROTECTION AND TO BE PROTECTED AGAINST SEXUALLY TRANSMITTED INFECTIONS, INCLUDING HIV/AIDS

Legislative Measures

586. In accordance with section 3 (1) of the Anti-Gender Based Violence Act, wilful infection of HIV/AIDS and STIs is considered as sexual abuse.
587. Section 21 (1) (c) and (d) of the Gender Equity and Equality Act, provides that, “a woman has a right to adequate sexual and reproductive health, which includes the right to be protected from sexually transmitted infections and self-protection from sexually transmitted infections.
588. Further Section 183 of the Penal Code criminalises wilful transmission of infectious diseases such as HIV.

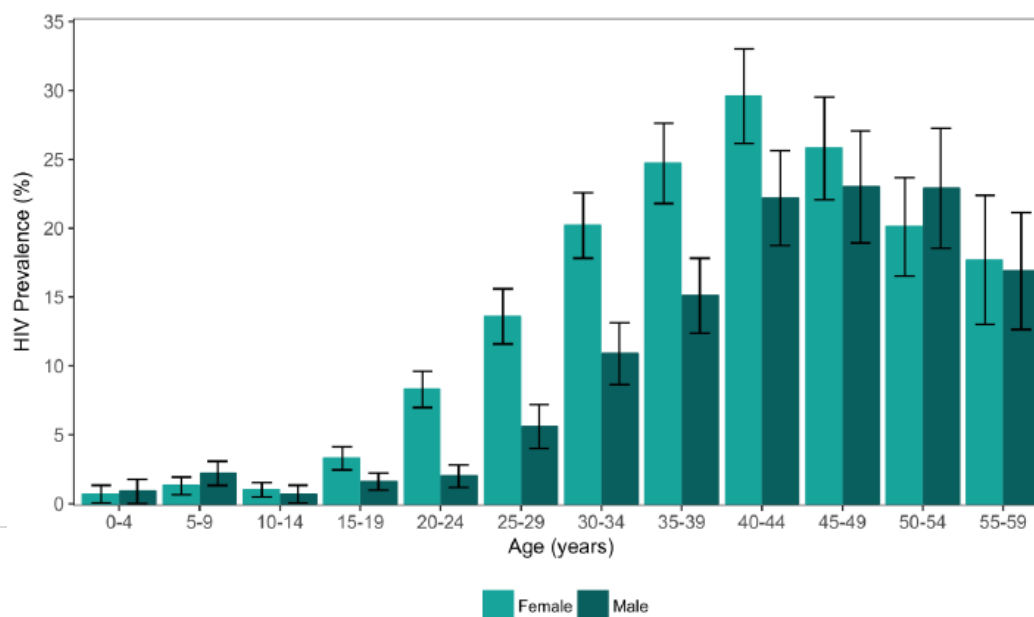
Policies and Programmes

589. The State party put in place the National Health Policy (2012) in order to scale up effective interventions aimed at improving counselling and testing, prevention, treatment and care for people living with HIV.

590. The State party has been implementing a series of National AIDS Strategic Frameworks whose mission is to rapidly and inclusively control the HIV/AIDS pandemic by fast-tracking the multi-sectoral response and scaling up prioritised actions that are responsive to the public health needs of the country.
591. The State party implemented the National AIDS Strategic Framework 2011-2015. The Framework estimated that 14.3% of Zambia's population (roughly 13,046,508 at the time the Framework was drawn up) was said to be infected with HIV/AIDS and also indicated a disproportionate impact on women with more than 16.1% of women being recorded as living with HIV/AIDS compared to 12.3% of men.
592. Currently, the State party is implementing the National AIDS Strategic Framework (2017 – 2021). This Framework is designed to provide adequate space and opportunities for communities, civil society, private sector, co-operating partners and Government institutions to actively participate in the implementation of evidence-based HIV/AIDS programmes, depending on their mandates and comparative advantages. The priority focus for the Framework is to intensify combination of HIV prevention in the national multi-sectoral HIV response, with a view of reducing new HIV infections.

The Zambia Population-Based HIV Impact Assessment Survey (ZAMPHIA) was conducted in 2016 in order to measure the status of the State party's national HIV response. The Survey indicates that 12% of Zambian adults between the ages of 15 and 59 are living with HIV, with 14.6% female compared to 9.3% males. This further indicates the disproportionate effect of the HIV pandemic on Zambian women.

Figure 2: HIV Prevalence among persons ages 0-59, by Sex and Age



Source: Zambia Population-Based HIV Impact Assessment 2016, page 29.

593. The State party has embarked on a number of awareness-raising campaigns including use of print media (pamphlets, posters and billboards), television and radio to keep the public well-informed about HIV/AIDS. Earlier campaigns focused on promoting abstinence before marriage. Nowadays, there has been an increase in the number of broadcast messages about routine HIV testing and counselling and sex education in schools and includes more comprehensive information about the biological facts about HIV.

Institutional Measures

594. As a means of responding to the HIV/AIDS pandemic and related issues, the State party established the National AIDS Council (NAC). The NAC is a body corporate with wide representation from Government, the private sector, and civil society and is mandated to coordinate and support the development of a multi-sectoral national response to HIV/AIDS.

Challenges

595. Lower levels of education amongst women increases their risk of being forced into sexual relationships and possibly contracting HIV as a result. There are a significant number of women in the State party, particularly those who are not educated, who believe that their husbands are entitled to demand sex from them under any circumstances. Further, many believe that they are not entitled to demand the use of condoms from their sexual partners and are often inhibited from doing so. The manner in which women are socialised into certain gender roles also increases their sexual risk. Where women are taught to be submissive to men and especially their husbands, they are put in a position in which they are unable to refuse a man's sexual advances.
596. Many women turn to sex work as a result of limited opportunities to find gainful employment. Engaging in sex work comes with a variety of risks including compromised safety, security and risks to health including contracting STIs and HIV/AIDS. According to the ZDHS 2013-2014, in the 12 months preceding the Survey, roughly 60% of men reported using a condom during the last time they had sexual intercourse.

597. The 2007 ZDHS indicates that only 69% of women and men aged between 15 and 49 knew that the risk of contracting HIV can be reduced through condom use and limiting sex to one faithful partner.
598. The situation has since improved as indicated in the 2018 ZD HS which reports that knowledge is generally high in the State party where 83% of women and 87% of men know that HIV can be prevented by using condoms during sexual intercourse. 92% of women and 94% of men say that limiting sexual intercourse to one uninfected partner can reduce the chances of getting HIV. Overall, 80% of women and 84% of men believe that both practices are protective.
599. Though knowledge of HIV prevention is relatively high, some misconceptions about HIV transmission are still common in the State party. For example, according to a 2010 survey by the Central Statistics Office, one-third of women and men in the State party believed that mosquito bites can transmit HIV. The numbers are reducing as shown by the ZDHS, 2018 indicating that 21% of women and 28% of men between 15 and 49 say HIV can be transmitted by mosquito bites.
600. There are a number of cultural and customary law practices including sexual cleansing, a ritual in terms of which a newly widowed woman must 'exorcise' the spirit of her husband by having sex with one of his male relatives. This puts women at great risk of contracting HIV or STIs. The Zambia Population-Based HIV Impact Assessment, for instance, shows that close to half of the participants who are widows (48.5%) were HIV positive.

ARTICLE 14(1) (F): RIGHTS OF WOMEN TO HAVE FAMILY PLANNING EDUCATION

Policies and Programmes

601. In 2013, the State party affirmed and adopted the East and Southern African (ESA) Commitment, which is a strategic tool that strengthens HIV prevention efforts and fosters positive health outcomes by advocating for access to quality, comprehensive sexuality education as well as sexual and reproductive health services for young people in the region.
602. It is in line with the above, that in 2014, the State party, with technical support, guidance and assistance from the United Nations Fund for Population Activities (UNFPA), United Nations Educational, Scientific and Cultural Organization

(UNESCO) and other partners, introduced Comprehensive Sexuality Education (CSE) into the schools' curriculum in order to address the early sexual debut, early marriage, unsafe sex, unsafe abortions, STIs and HIV infection, high rates of sexual and physical violence, poor access to health information and services, which are significant challenges faced by young people, especially girls. The State party launched this programme which saw the integration of CSE into the coursework for grades 5 through to 12. CSE is integrated in subjects such as languages, Home Economics, Integrated Social Studies, Integrated Science, Life skills, Physical Education, Religious Education, Civic Education and Home Economics. It is not taught as a stand-alone subject

603. The programme has also equipped educators with the skills to confidently and sensitively present the information to their learners. Teachers have been receiving face-to-face and online training on CSE. Further, health workers have been receiving training to build their capacity to meet the needs of young people without stigma or bias. Youth-friendly centres manned by such health workers have also been installed in some health centres across the country to encourage young people to access family planning information and services. To date, the CSE Programme has benefited more than 34,000 teachers and roughly 200 health workers. The training includes information on gender equality, interrogating underlying gender stereotypes that can be harmful to both boys and girls.
604. On 19th September 2016, the State party in collaboration with UNFPA launched a twelve-day training programme on the CSE curriculum for out-of-school youth to enhance the capacity of sexual education trainers to train other educators in CSE for young people who are not in school. The out-of-school CSE framework complements the in-school CSE curriculum thereby supporting a holistic approach of ensuring that consistent rights-based and gender-sensitive information is provided to all young people.

Challenges

605. The State party's society is quite conservative. Many parents are reluctant to have their children receive sexual education, especially from a young age. This renders it difficult for out-of-school children to receive comprehensive sexual education, because in addition to being physically unable to access information, society deems it a taboo to discuss sex and sexuality openly. They are at great risk of not accessing accurate rights-based information and reliable sexual and

reproductive health services. This leads to risky sexual behaviour which in turn results in STIs, teenage pregnancies and child marriage.

606. CSE programme in schools does not include family planning education as the State party has mandated the Ministry responsible for health to provide such services. This stands as a gap in the provision of family planning education to the youths who are grappling with sexual and reproductive health issues of early sexual debut; early marriages; unwanted and unintended pregnancies; and unsafe abortions.

ARTICLE 14(2) (A): ACCESS TO HEALTH SERVICES

This Article relates to the State party's role to provide adequate, affordable and accessible health services, including information, education and communication programmes to women especially those in rural areas.

Legislative Measures

607. Section 32 of the Gender Equity and Equality Act guarantees equitable access by both women and men to quality health care which include health related information and education.

Policies and Programmes

608. The National Health Policy of 2012 is directed at lessening the burden of diseases, reducing maternal and infant mortality and increasing life expectancy through the provision of a variety of good quality and effective health care services. It seeks to reduce adolescent fertility and improve sexual and reproductive health. Further, the Policy enjoins the State party to integrate factors such as population variables, reproductive health (including family planning) and gender into development planning and programme implementation processes.

Institutional Measures

609. The State party has constructed 275 new health posts in a number of rural areas across the State party to bring health facilities as close as possible to families. 37 clinics have also been upgraded to 1st level hospitals. The process of constructing new health posts is ongoing.

610. To deal with cervical and breast cancers and reduce high mortality rates amongst women, the State party has provided various cervical cancer screening services in health facilities across the State party to facilitate early detection and treatment of cervical and breast cancer. Health workers at these facilities now also provide women with information on how to do self-examination to detect potentially cancerous breast lumps.

Challenges

611. According to the ZDHS 2013-2014, 16% of females in Zambia had never been in school and 46% had a primary education at the time of the survey. These lower levels of education amongst women have adversely affected their health status in that they possess limited knowledge of health and nutrition and, as a result, have a poor attitude towards issues of their health.
612. Geographical barriers, including transportation costs and physical distance to clinics, have contributed to reduced healthcare access, particularly in rural settings. Further, the inadequacy of integration of health services in health facilities, particularly, HIV, influences stigmatisation and may lead to reduced access to health care services.
613. Limited access to educational and employment opportunities creates a situation in which women are usually engaged in labour-intensive work for long hours and very little pay in the agricultural sector, for example. They may also have the additional burden of supporting their families which negatively affects their health status and makes it difficult for them to access healthcare services.
614. The inadequacy of sex disaggregated data and low capacity of many government ministries and agencies to regularly collect and collate accurate and reliable data makes it difficult for the State party to effectively plan for the provision of health services. At present, it is extremely challenging to make targeted allocations for the health sector that actually reach women in need because of these information gaps.

ARTICLE 14(2) (C): PROVISION FOR ABORTION

This Article relates to the State party's role in making provision for abortion, protect the reproductive rights of women by authorising medical abortion in cases of sexual assault, rape, incest, and where the continued pregnancy

endangers the mental and physical health of the mother or the life of the mother or the foetus.

Legislative Measures

615. According to Article 12(2) of the Constitution, ‘a person shall not deprive an unborn child of life by termination of pregnancy except in accordance with the conditions laid down by an Act of Parliament for that purpose.’
616. The Termination of Pregnancy Act provides that a woman can terminate a pregnancy on medical grounds. In other words, a woman may only terminate her pregnancy when the said pregnancy causes some risk to the life of the pregnant woman, risk of injury to the physical or mental health of the pregnant woman or risk of injury to the physical or mental health of any existing children of the pregnant woman.
617. Sections 151 and 152 of the Penal Code Act were amended in 2005 to proscribe the administration of poison or other noxious substance to procure a miscarriage. This offence carries a minimum sentence of 7 years imprisonment and 14 years imprisonment for self-administration of such substance with intent to procure a miscarriage. Section 152 further provides for the termination of pregnancy as a result of rape or defilement. The pregnancy may be terminated in accordance with the Termination of Pregnancy Act.
618. Further, section 153 of the Penal Code Act criminalises the supply of such noxious or poisonous substance which is intended to be unlawfully used to procure the miscarriage of a woman or female child. The minimum sentence for this offence is imprisonment for 14 years.

Policies and Programmes

619. The State party has developed a series of Standards and Guidelines for Reducing Unsafe Abortion Morbidity and Mortality in Zambia (2009 and revised in 2019) for administering Comprehensive Abortion Care (CAC), including Post Abortion Care (PAC) services for abortion complications. The standards and guidelines provide clarification for medical providers on the abortion provisions under Zambian law, including a broader interpretation of the law, for instance, to cover abortion in cases of rape or defilement for both women and girls; how to implement the legal provisions; and how to provide safe abortion services and manage abortion complications. In particular, the standards and guidelines acknowledge that abortion is a safe procedure when performed by a trained

service provider under hygienic conditions, without categorically requiring that abortions be performed only in hospitals by trained doctors.

Challenges

- 620. In spite of positive legal and policy environment, the number of unsafe abortions is high. In 2014–15, 33.3% of health facilities provided PAC, yet only 5% actually performed termination of pregnancy . This is according to the Ministry of Health Zambia National Emergency Obstetric and Newborn Care (EmONC) Needs Assessment 2014-15 Preliminary Report .
- 621. Very few women in the State party are aware of the existence of laws and policies that allow them to procure safe abortion services under specified circumstances.
- 622. The other challenge pertains to religious, cultural and traditional values where some women may not terminate a pregnancy even though they are permitted by law to do so in cases where the pregnancy poses a danger to their health.
- 623. The State party is facing a challenge in that there is inadequate experienced health personnel on termination of pregnancy.
- 624. The Termination of Pregnancy Act requires the authorisation from three medical practitioners for one to access a medical abortion. This poses a challenge especially in remote parts of the country where there are no medical practitioners and this makes it impossible for the women who need abortion to access the service.

ARTICLES 15 & 16: RIGHTS TO FOOD SECURITY AND ADEQUATE HOUSING

- 625. Article 15 of the Protocol on the right to food security provides that, “States Parties shall ensure that women have the right to nutritious and adequate food.”
- 626. Article 16 of the Protocol on the right to adequate housing provides that, “women shall have the right to equal access to housing and to acceptable living conditions in a healthy environment.”
- 627. To ensure these rights, State parties shall grant to women, whatever their marital status, their rights to food security and access to adequate housing. To

implement the aforementioned provision of the Protocol, the State party has implemented the following measures:-

Policies and Programmes

628. The State party has been implementing the Farmer Input Support (FISP) from which a number of women have benefitted. According to the National Gender Profile of Agriculture and Rural Livelihoods, between 2002 and 2009, FISP beneficiaries averaged 35% female and 65% male. The proportion of female-headed beneficiary households increased from 17.6% during the 2011/12 agricultural season to 18.8% during the 2012/13 agricultural season. According to the Gender Status Report (2012-2014), during the 2013/14 agricultural season, the proportion of female-headed beneficiary households decreased to 17.7%.
629. The Food Security Pack Programme, spearheaded by the Ministry responsible for community development and social services, was introduced in 2000 to assist vulnerable but viable small-scale farming households. Eligible beneficiaries include, amongst others; female-headed households, child-headed households, persons with disabilities, the aged and institutions looking after orphans. The 2017/2018 farming season had 40,000 targeted household beneficiaries which increased to 80,000 in the 2018/2019 farming season.
630. The State party has been implementing various gender mainstreaming and empowerment interventions for promoting gender equality and empowerment of women and girls. Notably, the State party has been implementing the Agricultural Development through Value Chain Enhancement (ADVANCE) Project under the Ministry responsible for gender. As at 2019, a total of 71 tractors, 20 combine harvesters and 94 tillers have been procured and distributed to 804 women cooperatives in 120 chiefdoms across the State party.
631. The State party has been implementing the National Social Protection Policy of 2014 whose overall objective is to contribute to the wellbeing of all citizens by ensuring that the vulnerable people have sufficient income security to meet basic needs and protection from worst impacts of risks and shocks. Highlighted as one of the programmes in the Policy are social assistance programmes such as the Social Cash Transfer Scheme. The aim of the Scheme is to reduce extreme poverty and intergenerational transfer of poverty among beneficiary households and the community. In addition, social assistance programmes are

implemented with an objective of enhancing food and nutrition security for vulnerable populations.

632. On the acquisition of land, the State party introduced a policy on land acquisition in 2010. In 2016, 30% of available land was offered to women regardless of their marital status. This adheres to the SADC Protocol on Gender and Development.

Challenges

633. Traditionally and culturally, women have been facing challenges in accessing land but this has gradually changed over the years. To this effect, the State party has continued to put in place amongst other measures women's empowerment initiatives to improve their access to land.

ARTICLE 17: RIGHT TO A POSITIVE CULTURAL CONTEXT

634. Article 17, on the right to a positive cultural context provides that, "women shall have the right to live in a positive cultural context and to participate at all levels in the determination of cultural policies." The Protocol further provides that State parties shall take all appropriate measures to enhance the participation of women in the formulation of cultural policies at all levels. To implement this provision of the Protocol, the State party has implemented the following measures:

Legislative Measures

635. Article 1 of the Constitution reaffirms the principle of constitutional supremacy and invalidates law or conduct that is inconsistent with the Constitution to the extent of the inconsistency. The Constitution provides that no law shall make any provision that is discriminatory either in itself or in its application to members of a particular race, tribe, or system of customary law.

Policies and Programmes

636. The State party has the National Cultural Policy(2003). The Policy is primarily aimed at encouraging positive cultural practices which are not discriminatory towards women as well as the socialisation of boys and girls to be equal within the family unit and society at large.

637. The State party has been implementing programmes to train Local Court Justices on human rights and ways they can apply customary law without discriminating against women. This is aimed at improving clarity between the methods and manner in which justice is dispensed by Local Courts and conventional courts. Local Courts have jurisdiction over all customary law matters and are empowered to apply uncoded law to resolve a dispute. The law can vary greatly between tribal groupings and regions.

Judicial Measures

638. Section 56 of the Local Courts Act provides for an appeal to the Subordinate Court on a point of law from a decision of the Local Court. In this regard, a woman who is dissatisfied with a decision of the Local Court can obtain recourse from the Subordinate Court.

Practically the case of Chibwe vs Chibwe SCZ Judgement No. 38 of 2000 is instructive where a Local Court decision was overturned by the appellate court due to the fact that the decision rendered was repugnant and did not recognise the rights of a woman to an equitable share of property obtained during the subsistence of the marriage.

Institutional Measures

639. The State party established a Ministry responsible for chiefs and traditional affairs aimed at ensuring the positive development of the State party's culture. The State party through the aforementioned Ministry implements mandates including the preservation, reservation, conservation, development and promotion of the State party's heritage institutions, arts, architecture, cultural sites and values to project the unique State party's identity and national pride.

ARTICLE 18: RIGHT TO A HEALTHY AND SUSTAINABLE ENVIRONMENT

640. Article 18, on the right to a healthy and sustainable environment states that "women shall have the right to live in a healthy and sustainable environment." To implement this provision of the Protocol, the State party has implemented the following measures:

Legislative Measures

641. Article 255 of the Constitution sets out a few principles designed to govern the management and development of the State party's environment and natural resources. These include effective participation in the development of policies, legislation, plans and programmes and access to environmental information to enable people to protect, conserve and preserve the environment. This would include ensuring that women are consulted in the development of environmental law and policy and that such law and policy reflects considerations of gender.
642. Article 257 of the Constitution further enjoins the State party to establish mechanisms aimed at reducing waste, promoting relevant environmental management systems, encouraging public participation and ensuring that environmental standards enforced in the State party benefit its citizens.
643. Section 4 of the Environmental Management Act provides that subject to the Constitution, every person living in Zambia has the right to a clean, safe and healthy environment. Such right may be enforced through legal action where the right is threatened or likely to be threatened as a result of an act or omission of any other person.

Policies and Programmes

644. The State party has been implementing the National Environmental Policy of 2005. The Policy was developed to safeguard the environment and to ensure the sustainable use of natural resources. The main purpose of the policy is to create an umbrella policy for the welfare of the Nation's environment so that socio-economic development will be achieved effectively without damaging the integrity of the environment or its resources.
645. Other important policies in this regard include the National Climate Change Policy and the National Water Policy. The National Water policy provides a framework for water resource management and endeavors to deal with the daunting challenges of poverty reduction. The National Climate Change Policy, 2017 introduces a well-structured and coordinated national strategy to effectively tackle the adverse effects of climate change.
646. The State party has been implementing the Zambia Mining Environment and Remediation Project (ZMERIP) which aims to strengthen the capacity of national and state level institutions, improve enforcement for pollution prevention and address the environmental health impacts associated with lack of sustainable mining practices. The objective of ZMERIP is to reduce environmental health

risks, including lead exposure, to the local population in critically polluted mining areas (*in Kabwe, Kitwe, Mufulira and Chingola municipalities*) while strengthening the environmental management in the mining sector through improved regulatory framework.

Institutional Measures

642. The Ministry responsible for water development, sanitation and environmental protection, and the Ministry responsible for lands and natural resources are mandated to ensure that the State party has in place appropriate institutional, legislative and policy frameworks to guide the management and development of the environment, heritage and natural resources in the country for sustainable socio-economic development to benefit the present and future generations.
643. As part of their mandates, the Ministry responsible for mining, the Ministry responsible for energy, the Ministry responsible for water development and the Ministry responsible for labour have a duty to ensure that there is compliance with occupational health and safety standards in the mining sector.
644. ZEMA was established under the Environmental Management Act. It is the lead agency in the State party dealing with a range of environmental issues and the EIA process. It also identifies the projects, plans and policies that require an EIA and inspects and investigates business operations that may cause or do cause environmental damage. ZEMA plays an important role in disseminating information on the environment and adverse environmental impacts to the affected communities and the public at large.
645. Some authorising agencies have their own environmental units. Examples include the Environmental and Social Management Unit in the Road Development Agency, the Director of Mine Safety in the Ministry responsible for mines and minerals development and the Environmental and Social Affairs Unit in ZESCO. Usually, project briefs and EISs must be submitted to these authorising agencies first.

Challenges

646. ZEMA has inadequate capacity to carry out its work effectively and efficiently. For instance, ZEMA has very little scientific and technical equipment, and also inadequate human and financial resources.
647. The State party has inadequate capacity to address the adverse impact of climate change on sustainable living environment.

ARTICLE 19: RIGHT TO SUSTAINABLE DEVELOPMENT, INCLUDING THE RIGHT TO PROPERTY; ACCESS TO LAND AND CREDIT

647. Article 19, on the right to sustainable development provides that, “women shall have the right to fully enjoy their right to sustainable development.” And this includes the right to property, access to land and credit. To implement the aforementioned provision of the Protocol, the State party has implemented the following measures.

Legislative Measures

648. Article 8(f) of the Constitution provides for sustainable development as one of the national values and principles of the people of Zambia which inform the interpretation of the Constitution, the enactment and interpretation of the law and the development and implementation of State policy.
649. The State Party has enacted a number of legislation which support women empowerment, such as the Zambia Development Agency Act whose objective, among other things, is to promote gender equality in accessing, owning, managing, controlling and exploiting economic resources including land. The ZDA also encourages, supports and facilitates the creation of Small, Micro and Medium (MSMEs) business enterprises and promotes women’s participation in trade and industry.
650. Section 23 (1) of the Gender Equity and Equality Act provides that the the Minister responsible for gender in consultation with the Ministers responsible for finance and commerce shall develop policies and cause to be enacted laws that ensure equal access, benefits and opportunities for both sexes in trade and entrepreneurship, taking into account, especially the contribution of women in the formal and informal sectors. Further, section 23(2) provides that the Minister responsible for Gender shall, in liaison with appropriate public bodies, establish special measures to— (a) empower women to enable them participate fully in economic life across all sectors and activities; (b) promote women’s access to

economic opportunities and productive resources, including the control and ownership of economic production processes; and (c) facilitate the development of human, technical and financial capacity for empowerment of women to achieve sustainable socio-economic development.

651. The Citizens Economic Empowerment Act proscribes discrimination on grounds of gender. It is aimed at economically empowering marginalized citizens, particularly women, youth and persons with disabilities. The idea is to level the playing field amongst the citizenry to ensure they can all participate in and contribute to the State party's economy. One of the key functions of the Citizens Economic Empowerment Commission's work in preventing discrimination on the basis of sex or gender in the economic sector is ensuring equity ownership and meaningful control and participation in the means of production coupled with a supportive culture, sustainability and legal framework to support the policy.

Policies and Programmes

652. The National Environmental Policy of 2005 is aimed at promoting sustainable social and economic development through sound management of the environment and natural resources. One of the key principles under this policy is that 'women should effectively participate in the policy, program and project design and implementation to enhance their role in natural resource use and management activities.' The State party through the National Gender Policy, has endeavoured to integrate considerations of gender into national planning procedures.
653. The National Agricultural Extension and Advisory Services Strategy 2016-2020, was introduced to promote women's access to credit, training, skills-development programmes and extension services in rural areas.
654. The State party through the Ministry responsible for gender, the Ministry responsible for community development and the Ministry responsible for general education has been implementing the GEWEL programme as a means of supporting poor and vulnerable female-headed households. The Programme is aimed to increase access to livelihood support for women and access to secondary education for disadvantaged adolescent girls in extremely poor households in selected districts.
655. The State party has been implementing the National Social Protection Policy of 2014 whose overall objective is to contribute to the wellbeing of all citizens by

ensuring that vulnerable people have sufficient income security to meet basic needs and protection from worst impacts of risks and shocks. Other programmes highlighted in the Policy are social assistance programmes such as the Social Cash Transfer Scheme. The aim of the Scheme is to reduce extreme poverty and intergenerational transfer of poverty among beneficiary households and the community.

656. The State party has implemented the National Agricultural Investment Plan (NAIP) (2014-2018) under the Comprehensive Africa Agriculture Development Programme (CAADP). The Plan seeks to identify and prioritise key investment and policy changes in the State party that are critical to enhancing the desired agricultural productivity growth.
657. Vision 2030 principles demonstrate the State party's commitment to, among other things, mainstream gender in sustainable development by providing women with opportunities to improve their livelihoods.

Challenges

658. Although women in the State party are engaged in agricultural activities, they do not generate a sustainable income because they generally have a supporting role to fulfil in family farming. They have limited access to production equipment and land and their activities are usually limited to small-scale subsistence farming or simpler related work due to their other family commitments as primary care-givers. Thus, female farmers in the State party lack an environment conducive to a high level of productivity compared to their male counterparts.

RIGHTS OF SPECIALLY PROTECTED WOMEN'S GROUPS

ARTICLES 20 & 21: WIDOWS, INCLUDING THEIR INHERITANCE RIGHTS

659. The State party has taken appropriate legal measures to ensure that women enjoy the fundamental rights and has put in place measures to specifically protect widows' rights.

Legislative Measures

660. Sections 5 and 7 of the Intestate Succession Act entitle a widow to receive a portion of the estate of her spouse in accordance with the law. Further, section 9 of the Act provides that a widow has a life interest in the matrimonial house which determines upon the widow remarrying. These provisions protect the widow's right to inherit from her deceased spouse's estate. Widows are entitled to inherit under the Act regardless of whether they were married under customary law or statutory law.
661. Section 2 of the Gender Equity and Equality Act prohibits harmful practices such as sexual cleansing against women.

Institutional Measures

662. The department of the Administrator-General in the Ministry responsible for justice has the mandate to protect widow's right of inheritance by administering and enforcing the provisions of the law in favour of the widow.
663. The Legal Aid Board provides legal services to indigent persons including widows.
664. The Victim Support Unit under the Police Service has the mandate to protect the rights of the most vulnerable members of society including widows where their right to inherit from the estate of their spouse is violated.

Other Measures

665. The Legal Aid Clinic for Women and Women and Law in Southern Africa are NGOs that supplement the State party's efforts in providing legal services to vulnerable groups such as widows on issues relating to inheritance.

Policies and Programmes

666. The National Gender Policy of 2014 is designed to enhance the rights of widows, particularly their inheritance rights.
667. The State party has been conducting public sensitisation programmes on the issues of inheritance to the general public through the media, international trade affair, provincial and national shows targeting women on their right to inheritance.

Challenges

668. In practice, acts of property grabbing are fairly common and serve to deprive widows of their right to inherit from their spouses' estate upon death. Many relatives of the deceased argue that they are entitled to get property of the deceased as a matter of customary law which they believe vests a right in them to inherit the property of the deceased.
669. Despite the Intestate Succession Act being in place for three decades, many people still violate the provisions of the Act unintentionally due to deep rooted cultural beliefs on the issue of inheritance when a man dies.
670. Lack of understanding and misapplication of the provisions of inheritance in the Intestate Succession Act by family members has an effect of abrogating the right of widows to inherit from their spouse's property.

ARTICLE 22: ELDERLY WOMEN

671. The State Party shall continue to ensure that elderly women have the right to their economic, social and cultural development with due regard to their freedom and identity.

Policies and Programmes

672. The State Party, through the 7NDP, has prioritised social protection as part of the development agenda with a focus on reducing poverty and vulnerability among marginalised groups that include the elderly women.
673. The National Ageing Policy of 2015, in a bid to realise the vision of ageing with dignity and security, provides policy guidance on the recognition of the fundamental rights of older persons and abolishment of all forms of discrimination based on age and gender.

- 674. The National Social Protection Policy of 2014 protects vulnerable groups including elderly women from all forms of abuse, violence, discrimination, denial and neglect.
- 675. The National Non-Governmental Organisations (NGO) Policy of 2018 provides guidelines to NGOs including those dealing with issues of female older persons and seeks to harmonise their activities with the national development plan of the State party.
- 676. The Social Cash Transfer Scheme is one of the programmes that the State party has been implementing for the vulnerable groups that include the elderly women who are 65 years old and above.
- 677. Households headed by elderly women are also eligible to benefit from the Food Security Pack Programme and PWAS with the latter providing them with an opportunity to access health support.

Administrative Measures

- 678. The State party currently has 10 institutional homes for the aged established and are operational across the country. These include Mitanda home in Ndola and Matero home in Lusaka to provide some measure of protection and support to the elderly. The Mitanda is also equipped with a clinic that is staffed by qualified nurses. The Department of Social Welfare under the Ministry responsible for community development and social welfare, runs two homes in Livingstone and Mufulira and provides support to other homes not run by government through grants.
- 679. One of the guiding principles for the implementation of the National Social Protection Policy is equity to ensure that social protection measures reach disadvantaged groups to narrow the inequality gap with the rest of the population. The measures must also recognise the needs and status of different individuals such as age, gender, disability, health and socio-economic conditions. To this effect, the Ministry responsible for transport and communications and the Ministry responsible for works and supply are tasked with constructing and renovating infrastructure to better accommodate persons with disabilities, children and older persons. The Policy further acknowledges the need to bolster protections of older persons against abuse, neglect and violence.

Challenges

680. The elderly face many challenges that include; breakdown in extended family value system and social safety nets which leads to neglect and abandonment. Further, inadequate infrastructure to cope with the demand of the increasing number of the elderly. Furthermore, stigma stereotypes and lack of comprehensive social protection systems to provide sustainable livelihoods for the elderly women remains a challenge.

ARTICLE 23: WOMEN WITH DISABILITIES

Legislative Measures

675. The Persons with Disabilities Act domesticates the United Nations Convention on the Rights of Persons with Disabilities. The Act emphasises that gender equality is one of the key issues that need to be considered when promoting and protecting the rights of persons with disabilities.
676. The Technical Education, Vocational and Entrepreneurship Training (TEVET) Act states that the special needs of persons with disabilities shall be taken into consideration.
677. The Mental Health Act provides for the promotion and protection of the rights of persons with mental illness, mental disorder, and mental impairment or mental disability. It also provides for mental health services in correctional facilities and gives effect to certain provisions of the United Nations Convention on the Rights of Persons with Disabilities, protection of persons with mental illness and the improvement of mental care in line with General Assembly Resolution 46/119 and other international human rights instruments to which Zambia is a State party.

Institutional Measures

678. ZAPD is tasked with the responsibility of coordinating and regulating the provision of inclusive services for persons with disabilities through targeted coordination and regulation interventions, creation of strategic partnerships and fostering awareness creation on disability issues.

679. The National Trust Fund for Persons with Disabilities (NTFPD) is cardinal in providing loan facilities to persons living with disabilities.
680. Zambia Federation for the Disabled (ZAFFOD) has the mandate to approve the registration of any association by ZAPD.

Policies and Programmes

681. The National Social Protection Policy of 2014 priorities disability as one of its main pillars in its implementation. The Policy states that social protection measures must recognise the needs and status of different individuals such as age, gender, disability, health and socio-economic conditions.
682. The Vision 2030 recognises the need to properly streamline service delivery for persons with disabilities as key to achieving the overall goals and objective of the Vision.
683. Female persons with disabilities are eligible to benefit from many social assistance programmes currently in place including the Food Security Pack Programme and Social Cash Transfer Scheme. Under the latter, they may receive double cash transfers.
684. The State party developed a National Policy on Disability 2015 which aims to ensure that persons with disabilities can lead decent and productive lives without barriers. The Policy provides guidance on enjoyment of rights by persons with disabilities in terms of access to equal opportunities that are fundamental for living and development.

Challenges

685. Both the Persons with Disabilities Act and the National Policy on Disability do not provide for any special measures to address specific challenges that women with disabilities face. Persons with disabilities generally lag behind in most sectors due to a variety of barriers. Women with disabilities are particularly vulnerable to a variety of human rights abuses including discriminatory cultural practices and attitudes.
686. There is also minimal awareness on legislation and policy amongst persons with disabilities, especially female persons with disabilities, and the public in

general which has rendered PWDs unable to enforce their rights as enshrined in the law.

ARTICLE 24: WOMEN IN DISTRESS

687. The State Parties undertake to (a) ensure the protection of poor women and heads of families including women from marginalized population groups and provide an environment suitable to their social needs and (b) ensure the right of pregnant or nursing women or women in detention by providing them with an environment which is suitable to their condition and the right to be treated with dignity.

Legislative Measures

688. Article 8(d) of the Constitution provides for including human dignity, equality, social justice and non discrimination as part of the national values and principles.
689. The Prisons Act enshrines the dignity of prisoners especially female prisoners and circumstantial children. Section 56 in particular makes special provision for female prisoners with their infants to be received into prison.
690. The Anti-Gender-Based Violence Act contains provisions that protect the right of citizens including women and girls.
691. The Zambia Police Act was amended in 1999 to, among other things, provide for the introduction of the Victim Support Unit in the Zambia Police Service.
692. Section 53 of the Refugees Act provides for the protection of asylum seekers and refugees including women and children.

Institutional Measures

693. VSU under the Zambia Police Service was established to ensure the effective prevention and prosecution of crimes against women, children and the elderly..
694. The Ministry responsible for gender and the Ministry responsible for community development and social services of the State party are mandated to ensure that the rights of women in distress are protected. In that regard, the State party has provided places of safety meant to protect women and girls who face abuse in their homes. Women and girls are kept in these homes where they receive

counselling, and are trained on how best they can be self-sufficient and avoid being too dependent on their husbands for finances.

Policies and Programmes

695. The State party introduced the National Social Policy in 2014. The objective of the Policy was to provide a framework to guide all stakeholders in the delivery of social protection services in order to ensure that quality of life of many Zambians is improved. The Social Assistance pillar of the Policy has the objective of reducing extreme poverty and destitution among vulnerable and poor households. The Protection pillar of the Policy ensures the protection of the vulnerable populations from all forms of abuse, violence, discrimination, denial and neglect.

Challenges

696. Lack of facilities adapted to accommodate circumstantial children who need to be in their mothers care whilst serving prison sentences.
697. Inadequate financial resources makes it difficult for correctional facilities to fully provide food and other requirements for both the female prisoners and their circumstantial children or those whose children are too young to survive without their mothers.

ANNEXES

A. LEGISLATION

Adoption Act Chapter 54 of the Laws of Zambia

Affiliation and Maintenance of Children Act Chapter 64 of the Laws of Zambia

Anti-Gender Based Violence Act No. 1 of 2011

Anti-Human Trafficking Act No. 11 of 2008

Anti-Terrorism and Non-Proliferation Act No. 6 of 2007

Citizenship Act No. 33 of 2016

Citizen's Economic Empowerment Act No. 9 of 2006

Competition and Consumer Protection Act No. 24 of 2010

Constituency Development Fund Act No. 11 of 2018

Constitution of Zambia (Amendment) Act No. 2 of 2016

Criminal Procedure Code Chapter 88 of the Laws of Zambia

Defence Act Chapter 106 of the Laws of Zambia

Education Act No. 23 of 2011

Electoral Process Act No. 35 of 2016

Employment Code Act No. 3 of 2019

Environmental Management Act No. 12 of 2011

Factories Act Chapter 441 of the Laws of Zambia

Financial Intelligence Centre Act No. 46 of 2010

Food and Drugs Act Chapter 303 of the Laws of Zambia

Gender Equity and Equality Act No. 22 of 2015

Health Professions Act No. 24 of 2009

Higher Education Act No. 4 of 2013

Housing (Statutory and Improvement Areas) Act – repealed by the Urban and Regional Planning Act

Immigration and Deportation Act No. 18 of 2010

Independent Broadcasting Authority Act No. 17 of 2002

Industrial and Labour Relations Act Chapter 269 of the Laws of Zambia

Industrial Designs Act No. 22 of 2016

Intestate Succession Act Chapter 59 of the Laws of Zambia

Juveniles Act Chapter 53 of the Laws of Zambia

Lands Act Chapter 184 of the Laws of Zambia

Lands Acquisition Act Chapter 189 of the Laws of Zambia

Lands and Deeds Registry Act Chapter 185 of the Laws of Zambia

Legal Aid Act Chapter 34 of the Laws of Zambia

Legitimacy Act Chapter 52 of the Laws of Zambia

Local Courts Act Chapter 29 of the Laws of Zambia

Marriage Act Chapter 50 of the Laws of Zambia

Matrimonial Causes Act No. 20 of 2007

Medicines and Allied Substances Act No. 3 of 2013

Mental Health Act No. 6 of 2019

Mines and Minerals Development Act No. 11 of 2015

Movable Property (Security Interest) Act No. 3 of 2016

National Arts Council Act Chapter 170 of the Laws of Zambia

National Health Insurance Act No. 2 of 2018

National Health Research Act No. 2 of 2013

Non-Governmental Organisations Act No. 16 of 2009

Nurses and Midwives Act No. 10 of 2019

Occupational Health and Safety Act No. 36 of 2010

Passport Act No. 28 of 2016

Patents Act No. 40 of 2016

Penal Code Act Chapter 88 of the Laws of Zambia

Persons with Disabilities Act No. 6 of 2012

Police Public Complaints Commission Act No. 18 of 2016

Prisons Act Chapter 97 of the Laws of Zambia

Protection of Traditional Knowledge, Genetic Resources and Expressions of Folklore Act No.16 of 2016

Public Finance Management Act No. 1 of 2018

Public Health Act Chapter 295 of the Laws of Zambia

Public Order Act Chapter 113 of the Laws of Zambia

Ratification of International Agreements Act No. 34 of 2016

Refugees Act No. 1 of 2017

Societies Act Chapter 119 of the Laws of Zambia

Solid Waste Regulation and Management Act No. 20 of 2018

Statistics Act No. 13 of 2018

Superior Courts (Number of Judges) Act No. 9 of 2016

Technical Education, Vocational and Entrepreneurship Training Act No. 13 of 1998

Termination of Pregnancy Act Cap 297 of the Laws of Zambia

Trademarks Act Chapter 401 of the Laws of Zambia

Urban and Regional Planning Act No. 3 of 2015

Water Resources Management Act No. 21 of 2011

Water Supply and Sanitation Act No. 28 of 1997

Wills and Administration of Testate Estates Act Chapter 60 of the Laws of Zambia

Zambia Development Agency Act No. 11 of 2006

Zambia Police Act Chapter 107 of the Laws of Zambia

B. POLICIES

Child Welfare Policy 2015

Early Child Education Policy 2014

HIV/AIDS Policy 2010

Intellectual Property Policy 2010

National Child Policy 2006 revised in 2015

National Child Policy 2015

National Climate Change Policy 2017

National Cultural Policy 2003

National Decentralisation Policy 2002 revised in 2013

National Education Policy 1996

National Employment and Labour Market Policy 2005 revised in 2019

National Environmental Policy 2005

National Food & Nutrition Policy 2006

National Gender Policy 2000 revised in 2014

Non-Governmental Organisations' Policy 2018

National Health Policy 2012

National Housing Policy 2012

National Legal Aid Policy 2018

National Planning and Budgeting Policy 2018

National Policy on Ageing 2015

National Policy on Child Labour 2011

National Policy on Disability 2015

National Policy on the Environment 2009

National School Health and Nutrition Policy 2006

National Water Policy 2010

National Youth Policy 2015

National Policy on Disability 2015

National Resettlement Policy 2015

National Social Protection Policy 2014

National Water Policy 2010

National Youth Policy 2015

Re-entry Policy 1997

TEVET Policy 1996

User Fee Removal Policy 2006

Youth Employment and Empowerment Action Plan 2015

Zambianisation Policy

C. CASES

Attorney-General v Clarke 96A/2004 [2008] ZMSC 4

Brotherton N.O. v Electoral Commission of Zambia (2016/CC/0013) Selected Judgment No. 34 of 2017

Chipenzi and others vs. The People HPR/03/2014 [2014] ZMHC 112

Christine Mulundika and others vs. the People SCZ Judgement No. 25 of 1995

Geoffrey Elliam Mithi v Mopani Cooper Mines 2014/HB/48 (*Unreported*)

Godfrey Malembeka (suing in his capacity as Executive Director of Prisons Care and Counselling Association) v Attorney General and Electoral Commission of Zambia (2016/CC/0013) Selected Judgment No. 34 of 2017

Longwe v Intercontinental Hotel 1992/HP/765

Mwewa and Others vs Attorney General and others [2017] ZMHC 77

Nawakwi v Attorney-General [1991] ZMHC 6

Resident Doctors Association of Zambia vs. The Attorney General (SCZ) Judgment No. 12 of 2003

Sata v Post Newspapers Ltd and Another [1995] HC 1

Stanley Kangaibe and Charles Chookole vs. The Attorney-General (2009) HL/86 (unreported)

The People v Kasonkomona HP/42/2015 [2015] ZMHC 22