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## Human Rights Council

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### **Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21**

#### **Zambia**

The present report is a compilation of the information contained in the reports of treaty bodies and special procedures, including observations and comments by the State concerned, and of the Office of the High Commissioner for Human Rights (OHCHR), and in other relevant official United Nations documents. It is presented in a summarized manner due to word-limit constraints. For the full text, please refer to the document referenced. This report does not contain any opinions, views or suggestions on the part of OHCHR other than those contained in public reports and statements issued by the Office. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

## I. Background and framework

### A. Scope of international obligations<sup>1</sup>

#### International human rights treaties<sup>2</sup>

	<i>Status during previous cycle</i>	<i>Action after review</i>	<i>Not ratified/not accepted</i>
<i>Ratification, accession or succession</i>	ICERD (1972) ICESCR (1984) ICCPR (1984) CEDAW (1985) CAT (1998) CRC (1991)	CRPD (2010) CPED (2011) OP-CAT (signature only, 2010) OP-CRC-AC (signature only, 2008) OP-CRC-SC (signature only, 2008)	ICCPR-OP 2 ICRMW
<i>Reservations, declarations and/or understandings</i>	ICESCR (1984) (Reservation art.13, para. 2 (a))		
<i>Complaint procedures, inquiry and urgent action<sup>3</sup></i>	ICCPR-OP 1, art. 1 (1984) CAT, art. 20 (1999)	OP-CEDAW, arts. 1 and 8 (signature only, 2008) OP-CRPD, arts. 1 and 6 (signature only, 2008) CPED, arts. 30 and 33 (2011)	ICERD, art. 14 OP-ICESCR, arts. 1, 10 and 11 ICCPR, art. 41 CAT, arts. 21 and 22 ICRMW, arts. 76 and 77 OP-CRC-IC, arts. 5, 12 and 13 CPED, arts. 31 and 32

**Other main relevant international instruments**

	<i>Status during previous cycle</i>	<i>Action after review</i>	<i>Not ratified</i>
<i>Ratification, accession or succession</i>	Rome Statute of the International Criminal Court		Convention on the Prevention and Punishment of the Crime of Genocide
	Palermo Protocol <sup>4</sup>		UNESCO Convention against Discrimination in Education
	Conventions on refugees and stateless persons <sup>5</sup>		ILO Convention No. 169 <sup>8</sup>
	Geneva Conventions of 12 August 1949 and Additional Protocols thereto <sup>6</sup>		ILO Convention No. 189 <sup>9</sup>
	ILO fundamental conventions <sup>7</sup>		

1. The Committee on the Elimination of Discrimination against Women (CEDAW) encouraged Zambia to consider ratifying ICRMW, OP-ICESCR, ICCPR-OP2, OP-CAT, OP-CRC-AC and OP-CRC-SC.<sup>10</sup>

2. In 2012, the Special Rapporteur on extreme poverty and human rights stated that her recommendation that Zambia withdraw its reservations to the 1951 Convention relating to the Status of Refugees, and align existing refugee legislation with international human rights standards, had not been followed.<sup>11</sup>

3. The Office of the United Nations High Commissioner for Refugees (UNHCR) stated that, with regard to refugee children, Zambia had entered a reservation to article 22, paragraph 1 of the 1951 Refugee Convention and encouraged it to withdraw this reservation.<sup>12</sup>

**B. Constitutional and legislative framework**

4. In 2012, the Special Rapporteur on extreme poverty and human rights indicated that the Government had appointed a technical committee to draft a new constitution and urged this committee to ensure that economic, social and cultural rights be included in the final draft.<sup>13</sup> She also called on the technical committee to heed to the recommendations of CEDAW and ensure that the constitution prohibited discrimination against women without exceptions.<sup>14</sup>

5. In 2011, the Special Rapporteur on violence against women reiterated her concerns that article 23.4 in the current Constitution, which permitted discriminatory laws and practices in the area of personal and customary laws, had been retained in the draft text despite the guarantee of equal status of women found in article 11 of the current Constitution.<sup>15</sup> She recommended that the Government and all State institutions work together to repeal article 23.4c of the current Constitution (art. 48 of the draft Constitution) as a matter of priority in order to render the constitutional framework of the country compliant with the international human rights obligations.<sup>16</sup>

6. In 2011, CEDAW urged Zambia to reflect the provisions of the Convention in the new draft Constitution; enact legislation to prohibit against discrimination; and harmonize customary law with the Convention.<sup>17</sup>

7. The United Nations Children's Fund (UNICEF) stated that the Constitution enacted in 1996 did not define the age of a child. Zambia was drafting a new constitution and bill of

rights with the intent to ensure domestication of the Convention on the Rights of the Child through the constitutional reform process.<sup>18</sup>

8. CEDAW remained concerned that the Convention had not been incorporated into domestic law and its provisions could not be invoked before the courts.<sup>19</sup> It recommended that Zambia fully incorporate the Convention into domestic law.<sup>20</sup>

9. In 2008, Committee against Torture (CAT) urged Zambia to incorporate the Convention into its legal system, including a definition of torture covering all the elements contained in the Convention and appropriate penalties; and incorporate in its Constitution and laws the principle of an absolute prohibition of torture.<sup>21</sup>

## C. Institutional and human rights infrastructure and policy measures

### Status of national human rights institutions<sup>22</sup>

<i>National human rights institution</i>	<i>Status during previous cycle</i>	<i>Status during present cycle</i> <sup>23</sup>
Zambian Human Rights Commission	A (2006)	A (2011)

10. CEDAW recommended that Zambia strengthen the Human Rights Commission of Zambia and its Gender Equality Committee by providing adequate visibility, power and human and financial resources at all levels.<sup>24</sup>

11. CAT was concerned that the Human Rights Commission did not have the power to take action against persons found guilty, and could only make recommendations which Zambia frequently failed to implement. It recommended that Zambia provide the Commission with resources; reinforce the commissioners' independence, especially with regard to the appointment process; and fully and promptly implement its recommendations.<sup>25</sup>

## II. Cooperation with human rights mechanisms

### A. Cooperation with treaty bodies<sup>26</sup>

#### 1. Reporting status

<i>Treaty body</i>	<i>Concluding observations included in previous review</i>	<i>Latest report submitted since previous review</i>	<i>Latest concluding observations</i>	<i>Reporting status</i>
CERD	Aug.2005	--	--	Seventeenth to twentieth reports overdue since 2009 and 2011 respectively
CESCR	May 2005	--	--	Second report overdue since 2010
HR Committee	July 2007	--	--	Fourth report overdue since 2011
CEDAW	June 2002	2010	July 2011	Seventh report due in 2015
CAT	Nov. 2001	2005	May 2008	Third report due in 2012

<i>Treaty body</i>	<i>Concluding observations included in previous review</i>	<i>Latest report submitted since previous review</i>	<i>Latest concluding observations</i>	<i>Reporting status</i>
CRC	June 2003	--	--	Second to fourth reports overdue since 2009
CRPD	--	--	--	Initial report due in 2012
CED	--	--	--	Initial report due in 2013

## 2. Responses to specific follow-up requests by treaty bodies

### *Concluding observations*

<i>Treaty body</i>	<i>Due in</i>	<i>Subject matter</i>	<i>Submitted in</i>
CERD	2006	Freedom of expression, refugees and human rights education <sup>27</sup>	overdue
HR Committee	2008	Zambian Human Rights Commission, non-discrimination, customary practices and prison overcrowding <sup>28</sup>	2009
CAT	2009	Obligation to investigate, right to complain, fundamental safeguards, administration of justice, detention facilities and prison living conditions <sup>29</sup>	overdue
CEDAW	2013	Discrimination in the Constitution and laws, and violence against women <sup>30</sup>	upcoming

### *Views*

<i>Treaty body</i>	<i>Number of views</i>	<i>Status</i>
<i>HR Committee</i>	2 <sup>31</sup>	Ongoing

## B. Cooperation with special procedures<sup>32</sup>

	<i>Status during previous cycle</i>	<i>Current status</i>
<i>Standing invitation</i>	No	Yes
<i>Visits undertaken</i>		Independent Expert on the question of human rights and extreme poverty (20 to 28 August 2009) Special Rapporteur on violence against women (6-11 December 2010)

	<i>Status during previous cycle</i>	<i>Current status</i>
<i>Visits agreed to in principle</i>		Special Rapporteur on the right to food
<i>Visits requested</i>	The Special Representative of the Secretary-General on the situation of human rights defenders (2003) Special Rapporteur on toxic waste (2007)	
<i>Responses to letters of allegations and urgent appeals</i>	During the period under review, no communications were sent.	
<i>Follow-up reports and missions</i>	Report of the Special Rapporteur on extreme poverty and human rights	

### **III. Implementation of international human rights obligations, taking into account applicable international humanitarian law**

#### **A. Equality and non-discrimination**

12. CEDAW remained concerned at the persistence of adverse cultural norms, practices, traditions, patriarchal attitudes and deep-rooted stereotypes regarding the roles, responsibilities and identities of women and men in all life spheres. It urged Zambia to put in place a strategy to eliminate violence, harmful practices and stereotypes against women, including through the National Gender Communication Strategy implementation.<sup>33</sup>

13. CEDAW recommended that Zambia adopt legislative measures providing for special temporary measures in all areas in which women were underrepresented or disadvantaged.<sup>34</sup>

14. In 2010, the then Independent Expert on the question of human rights and extreme poverty noted that in particular, groups that were exposed to discrimination on several grounds, such as women, children, older persons, persons living with HIV/AIDS, migrants, asylum seekers and refugees, faced additional difficulties when trying to overcome situations of extreme poverty.<sup>35</sup> She recommended that the Government take all appropriate measures to modify social and cultural patterns that reinforce discriminatory practices against these groups.<sup>36</sup>

15. The United Nations Children's Fund (UNICEF) stated that while the Affiliation and Maintenance of Children Act covered provisions for children's inheritance it did not comply with universal periodic review (UPR) recommendation 58 (4) in that children not born within the marriage were not covered. Furthermore enforcement of the Act remained problematic as customary marriage disputes and inheritance were often heard in "local courts" rather than under statutory courts.<sup>37</sup>

#### **B. Right to life, liberty and security of the person**

16. CAT recommended that Zambia restrict the application of the death penalty; adopt procedural reforms that include measures for pardon; ensure that its legislation provided for the possibility of commuting the death sentence where there have been delays in its

implementation; and that all persons on death row were afforded the protection provided by the Convention.<sup>38</sup>

17. CAT recommended that Zambia promptly and impartially investigate all allegations of torture and ill-treatment, including sexual violence;<sup>39</sup> ensure the prompt enactment of an adequate prosecution policy;<sup>40</sup> continue human rights training including on the prohibition of torture for all professionals;<sup>41</sup> continue its recruitment process of female officers; and ensure that monitoring procedures are in place.<sup>42</sup>

18. UNICEF stated that UPR recommendation 58 (8) related to improving the living conditions of detainees had in part, been implemented for children. Separation of children from adults in custody had only been achieved in part with children still incarcerated in adult facilities, sharing the same bathing and exercise area and often transported with adults to and from court and police facilities. Prison congestion led to children being held in the same facilities before and after their trials.<sup>43</sup>

19. CAT was concerned that there were no formal rules ensuring the right to contact relatives, the right of access to a lawyer, including for children, and medical examination from the outset of detention. It recommended that Zambia amend its Code of Criminal Procedure and ensure that fundamental legal safeguards for persons detained by police officers are respected.<sup>44</sup>

20. The Special Rapporteur on violence against women observed that HIV prevalence in Zambian prisons appeared to be significantly higher (27 per cent) when compared to the general adult population, although systemic data in this regard was not yet available.<sup>45</sup>

21. CAT reiterated its concerns about the severe overcrowding in detention facilities, the poor physical conditions prevailing in prisons, the lack of hygiene and adequate food and the use of a reduced diet as a form of punishment. It recommended that Zambia bring conditions in detention centres into line with the United Nations Standard Minimum Rules for the Treatment of Prisoners.<sup>46</sup>

22. UNICEF stated that exploitation and abuse of children remained a challenge particularly in addressing harmful social norms. Reported rates of “defilement” of children below the age of 16 years were on the increase as were the numbers of girls dropping out of basic education due to pregnancy.<sup>47</sup>

23. CEDAW reiterated its concern at the high prevalence of violence against women and girls, including domestic violence; widespread incidents of sexual violence; the low rate of convictions for reported incidents of rape and defilement; and about the fact that marital rape is not explicitly recognized as a criminal offence in either the Penal Code or the new Anti-Gender-Based Violence Act.<sup>48</sup>

24. The Special Rapporteur on violence against women recommended that additional amendments to the Penal Code be considered including review of the definition of rape; introduction of aggravating circumstances for the crime of rape, such as when it is committed within intimate relations; review of the definition of defilement, age of the child in defilement offences; exceptions for marriages under 16 years of age; review of the category of relatives who may be considered as committing incest to include extended family members who take care of children.<sup>49</sup>

25. CEDAW urged Zambia to ensure resources for the implementation of Anti-Gender-Based Violence Act; adopt measures to address such violence; expeditiously criminalize marital rape; and strengthen training for the judiciary and law enforcement personnel and health-service providers.<sup>50</sup>

26. CAT recommended that Zambia extend legislation prohibiting corporal punishment to the family and institutions other than schools; enforce the legislation; and undertake awareness-raising and educational campaigns to that effect.<sup>51</sup>

27. The Special Rapporteur on violence against women recommended that the Local Courts Act allowing for corporal punishment should be amended to reflect the jurisprudence emanating from the 1999 High Court case (*Banda v. The People*) which found corporal punishment to be unconstitutional.<sup>52</sup>

28. CEDAW remained concerned at the increasing number of child victims of commercial exploitation, including prostitution, and called on Zambia to implement the legislation on trafficking.<sup>53</sup>

### **C. Administration of justice, including impunity, and the rule of law**

29. UNICEF stated that UPR recommendation 58 (5) which related inter alia to training human rights judges had not been fully implemented and that a recent study on Access to Justice found a gap in capacity-building at local court level, particularly in the area of human rights.<sup>54</sup>

30. UNICEF stated that UPR recommendation 58 (10) had, in part, been implemented with the establishment of juvenile courts. Although there were separate court facilities, magistrate courts held juvenile hearings on days allocated only for these cases. All magistrates received training on juvenile matters with specific magistrates assigned to juvenile cases in Lusaka, Livingstone and Ndola. The Criminal Procedure Code excluded juveniles from proceedings tailored for adults.<sup>55</sup>

31. CAT was concerned that most people in Zambia were unaware of their rights and thus unable to present their allegations before authorities or tribunals. It recommended that Zambia undertake awareness-raising campaigns in that regard.<sup>56</sup>

32. CAT noted with concern that there was no legislation or other measures to ensure that any statement made as a result of torture could not be invoked as evidence in any proceedings. It recommended that Zambia adopt legislative, judicial or administrative measures to ensure the strict application of article 15 of the Convention.<sup>57</sup>

33. CEDAW noted that, while women's access to justice was provided for by legislation in Zambia, their ability to exercise that right and to bring cases of discrimination before the courts was limited.<sup>58</sup> It urged Zambia to, inter alia, remove the impediments that women may face in claiming their rights and gaining access to justice, including in the local and customary courts; and strengthen legal literacy programmes for women.<sup>59</sup>

34. CEDAW called upon Zambia to take measures to ensure that statutory law did in fact prevail where there is a conflict with customary practices, especially in family relations; to ensure women's right to make their own choices with regard to reproductive and sexual health; to train and sensitize "administrators" of customary and traditional courts about the Convention; and to ensure the de facto criminalization of harmful customary practices.<sup>60</sup>

35. The Special Rapporteur on violence against women indicated that those with whom she had met, generally agreed that there was widespread impunity in relation to cases of violence against women and that underreporting of such cases remained extensive. In addition, the formal justice system was mostly inaccessible to women.<sup>61</sup> She recommended that Zambia take measures to ensure that interviews of victims and witnesses be held in separate rooms in police stations;<sup>62</sup> amend legislation to establish that responsibility for prosecuting violence against women lay with the prosecution and not with the survivors of violence and to explicitly prohibit conciliation in all cases of violence against women;<sup>63</sup>



and to mandate proper collection and the timely testing of forensic evidence.<sup>64</sup> She also recommended that the Government jointly with the customary law entities clarify the relationship and boundaries between customary laws and institutions and the civil and criminal justice system.<sup>65</sup>

36. CAT was concerned at the discrepancy between statutory and customary law as regards issues of gender-based violence and recommended that Zambia ensure the priority of statutory law over customary law and practices.<sup>66</sup>

37. In 2010, the then Independent Expert on the question of human rights and extreme poverty stated that the Government must ensure the full investigation of corruption cases, and that those responsible be held accountable for their actions. She recommended that the Government increase its support to the anti-corruption mechanisms by ensuring their total independence and strengthen the Anti-Corruption Commission by amending its statute, so that it report to the Parliament.<sup>67</sup>

#### **D. Right to privacy, marriage and family life**

38. CEDAW was concerned that customary law was more likely to be applied in family and personal relations, namely, adoption, marriage, divorce, burial and the devolution of property upon death.<sup>68</sup>

39. UNICEF stated that incidences of child marriage were high. Whilst the Marriage Act had established the legal age for marriage at 21 years of age, it left provision for marriage below this age with consent of an adult. Customary Law, under which most marriages took place, allowed for a child to be married at puberty.<sup>69</sup>

40. UNICEF stated that although birth registration was compulsory, the rate of birth registration remained low.<sup>70</sup>

#### **E. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life**

41. The United Nations Country Team (UNCT) stated that two bills on freedom of information introduced in 2002 and 2007 have not been adopted and that there was a freedom of information bill which was due to be tabled in Parliament.<sup>71</sup> UNCT added that it was necessary to reform the penal code to protect journalists from prosecution.<sup>72</sup>

42. In 2012, the Special Rapporteur on extreme poverty and human rights noted that, according to information received, implementation of the Non-Governmental Organisations Act had not yet begun. She thus reiterated her recommendation that Zambia remove the provisions in the Act which impose excessive restrictions on the activities of civil society organizations.<sup>73</sup>

43. While noting with appreciation the attainment by Zambia of the 50 per cent threshold of women in decision-making positions at the High Court and Supreme Court levels, CEDAW was concerned about the lack of quota systems, as well as the gender-biased views, negative practices and poor socio-economic status which prevented women from fully accessing the right to participate in public life, particularly at the level of decision-making.<sup>74</sup> It called upon Zambia to increase representation of women in decision-making positions; and train civil servants and politicians, especially men on gender equality.<sup>75</sup>

## **F. Right to work and to just and favourable conditions of work**

44. CEDAW expressed concerns about the gender wage gap in the formal sector, at the fact that women represented a small number in that sector; a higher number of the unemployed, and a high number in the informal sector; that there was no social security or other benefits; and at the lack of reporting on and implementation of the ILO Conventions on equality and on child labour.<sup>76</sup> It recommended that Zambia adopt policies and take measures, including temporary special measures, for achieving equality of men and women in the labour market; ensure the full and equal implementation of the Statutory Instruments on Minimum Wages and Conditions of Employment; and work closely with the private sector to create beneficial policies and projects for women in the labour market, including those in the informal sector.<sup>77</sup>

45. In 2012, ILO Committee of Experts on the Application of Conventions and Recommendations (ILO Committee of Experts) called for that the provisions of the Industrial and Labour Relations (Amendment) Act No. 8 of 2008 be brought in conformity with ILO Convention No. 87.<sup>78</sup>

46. The ILO Committee of Experts took note of Zambia's statement that steps had been taken to finalize the Statutory Instrument on Hazardous Work. It expressed the hope that the Statutory Instrument on Hazardous Work containing the list of types of hazardous work prohibited to children under 18 years would be adopted soon and also urged Zambia to step up its efforts to abolish child labour.<sup>79</sup>

47. The ILO Committee of Experts noted that according to official data published by Zambia's Local Government Finance and Audits, as of July 2011, the overall wage debt owed to local council employees amounted to 46 billion Zambian kwacha. It stated that serious problems of accumulated wage arrears were also experienced by teachers and health workers. It expressed the hope that the Government would intensify its efforts in order to eliminate the accumulated wage debt.<sup>80</sup>

## **G. Right to social security and to an adequate standard of living**

48. In 2012, the Special Rapporteur on extreme poverty and human rights recalled her concerns regarding the unsystematic registration of children. She indicated that from 2000 to 2010, only 5 per cent of children from the poorest quintile of the population were registered at birth. Noting that undocumented children had less access to public services and were statistically invisible for the purposes of policymaking, she urged Zambia to adopt procedures to enable birth registration to be free and accessible to all as a matter of priority.<sup>81</sup>

49. Concerned by poverty, illiteracy, difficulties in accessing health and social services of women in rural and remote areas, CEDAW called upon Zambia to increase and strengthen women's participation in designing and implementing local development plans; pay special attention to the needs of rural women, particularly those women who were heads of their households, by ensuring their participation in decision-making processes and improving their access to health, education, clean water, sanitation services, land and income-generating projects; and establish a legislative framework to protect women's rights to inheritance and ownership of land.<sup>82</sup> In 2012, the Special Rapporteur on extreme poverty and human rights noted that women continued to be denied the right to land ownership, especially under customary law; and urged the Government to take action on this issue.<sup>83</sup>

50. In 2012, the Special Rapporteur on extreme poverty and human rights observed that according to the latest available information, extreme poverty and malnutrition continued to affect a large percentage of Zambian children. She called on Zambia to finalize the draft

national plan of action for orphans and vulnerable children. She also welcomed the introduction of a child grant scheme in several districts, and urged the Government to develop plans to strengthen the linkages between child and social protection.<sup>84</sup>

51. In 2012, the Special Rapporteur on extreme poverty and human rights noted that Zambia had not acted upon her strong recommendations with respect to increasing expenditure on social protection. She indicated that according to information received, budgetary allocation to social protection as a percentage of the total budget continued to decline. She stated that these persistent reductions, could amount to retrogressive measures inconsistent with Zambia's obligations under ICESCR. Such reductions could undermine the effectiveness of the country's social protection programmes and impede their proposed expansion under the Sixth National Development Plan 2011-2015.<sup>85</sup> She forcefully reiterated that the Government must adopt an adequate legal and institutional framework to ground and regulate the national social protection system and ensure its long-term political and financial support.<sup>86</sup>

52. UNICEF stated that UPR recommendation 58 (11) which related to assistance to street children had partially been implemented with government budget allocation provided under the Gender and Child Development Division, Cabinet Office. Under the Ministry of Community Development, Mother and Child Health, several centres for street children had been established; however integration of services with broader social welfare services remained weak and there was no national strategy for prevention.<sup>87</sup>

53. UNICEF stated that UPR recommendation 58 (12) had in part been implemented, with the development of social protection services, in particular the Child Grant, Provincial Welfare Assistance Scheme and other targeted social cash transfer programmes. Disabled persons were also entitled to social protection assistance. However, access to services remained weak.<sup>88</sup>

## H. Right to health

54. The Special Rapporteur on violence against women indicated that Zambia had one of the highest HIV prevalence rates in the world with an adult HIV prevalence rate of 14.3 per cent in 2007. Nearly 80 per cent of all Zambians infected with HIV were under the age of 25. Younger women and older men were mostly infected with HIV with prevalence reaching a peak for women in the 30 to 34 year age group. In 2009 an estimated 82,681 adults were newly infected with HIV, 59 per cent of whom were women and 41 per cent men. She also noted that it was further estimated that for every two people on treatment, five more were newly infected, of whom three were women.<sup>89</sup>

55. UNICEF stated that Zambia had responded to UPR recommendation 58 (16) by developing the National Community Health Worker Strategy with the goal of having an adequately trained and motivated community-based workforce that would contribute towards improved health service delivery and the attainment of national health priorities. The strategy called for further training of existing community based providers also building on their field experiences. The creation of the Ministry of Community Development, Mother and Child Health and of the Ministry of Chiefs and Traditional Affairs was envisioned to contribute to further strengthening of community participation and engagement and facilitating integration of community experiences into policy discussions.<sup>90</sup>

56. CEDAW was concerned about the high rates of maternal mortality and morbidity, in particular resulting from unsafe abortions; the lack of access for women and girls to reproductive health care and information, including contraception and HIV/AIDS treatment; the high rate of adolescent pregnancy; and malnutrition. Also, malaria remained a serious health concern for women.<sup>91</sup> It recommended improving women's access to

reproductive health-care and related services; strengthening the efforts, including through the Campaign for Accelerated Reduction of Maternal Mortality in Africa, to reduce maternal mortality; raising awareness among women and clinicians about the legislation on abortion; and ensuring that anti-malaria drugs were available and accessible, especially to pregnant women.<sup>92</sup>

57. UNICEF stated that Zambia remained challenged in reaching the MDG targets particularly in reducing maternal mortality and child mortality.<sup>93</sup>

58. UNICEF stated that Zambia had made progress in implementing UPR recommendation 58 (17) which was to improve access to anti-retroviral treatment for vulnerable groups. The Government developed the “PMTCT Scale-up Plan 2007-2010” which placed emphasis on male involvement and community engagement for facilitating access to anti-retroviral treatment especially by women and their children.<sup>94</sup>

59. CEDAW called upon Zambia to address the HIV/AIDS’ impact on women and girls, especially orphaned children and older women; improve access to free prevention, treatment and care; and undertake awareness-raising campaigns.<sup>95</sup>

60. In 2012, the Special Rapporteur on extreme poverty and human rights was pleased to note, with regard to HIV/AIDS, the substantial increase in the numbers of people receiving free antiretroviral treatment, and called on Zambia to urgently push ahead to increase coverage, with the support of development partners.<sup>96</sup>

61. UNCT stated that an adolescent health situation analysis was done in 2009 and a National Adolescent Health Strategy Plan 2011-2015 was developed. Guidelines were being finalized on standards of adolescent health.<sup>97</sup>

## **I. Right to education**

62. UNICEF stated that challenges remained in ensuring access to early learning and secondary education. In these sectors, services were either limited or inaccessible to the poorest children due to user fees.<sup>98</sup>

63. UNICEF stated that measures including the recent amendment to the Education Act (2011) and the introduction of compulsory school attendance for children of basic education, couple with other initiatives including the budgetary increase for the education sector demonstrated Zambia’s commitment towards implementing recommendation 58 (13) which related to the continuation of efforts to improve the education system.<sup>99</sup> However, UPR recommendation 58 (14), which related to developing a national strategy for human rights education in the school system, had not been implemented.<sup>100</sup>

64. CEDAW welcomed the new Education Act and the progress in the enrolment, retention and progression of girls at the basic school level. However, it was concerned that girls continued to drop out of school, especially in rural areas, and about the lack of adequate capacity and infrastructure at schools, including inappropriate sanitary facilities for girls.<sup>101</sup> It urged Zambia to strengthen its efforts towards equal access, participation and the successful completion of education at all levels; reinforce its policy on the readmission to school of pregnant girls and young mothers, particularly in rural areas; and put an end to violence against girls in schools, ensuring that perpetrators are punished.<sup>102</sup>

65. The Special Rapporteur on violence against women recommended that the Ministry of Education, should, as a matter of urgency, develop and adopt regulations to prevent and protect schoolgirls from violence as well as put in place frameworks and systems for effective implementation of such regulations.<sup>103</sup>

## J. Persons with disabilities

66. UNICEF stated that Zambia had adopted a number of laws and policies on persons with disabilities. However, while plans and strategies were in place to address disability in most sectors, critical gaps existed in terms of the available information and systems supportive to effective coordination, programme design, budgeting and implementation.<sup>104</sup>

## K. Migrants, refugees and asylum seekers

67. UNHCR stated that a major obstacle to refugees' ability to enjoy their rights, access services and attain self-reliance were the reservations on freedom of movement and the right to employment that Zambia had entered to the 1951 Refugee Convention.<sup>105</sup>

68. The Special Rapporteur on extreme poverty and human rights indicated that an estimated 10,000 recognized refugees lived in urban areas without the required residence permit, and consequently without equal access to services.<sup>106</sup>

69. UNHCR stated that the Refugee (Control) Act reflected the reservations made to the 1951 Convention. The Act, for example, had an encampment policy and did not incorporate certain international standards, such as the principle of non refoulement. It also gave the Minister of Home Affairs wide discretion to deport refugees from the territory and did not provide for appeal to an independent authority.<sup>107</sup> UNCT made similar comments.<sup>108</sup>

70. CAT was concerned that the Refugee Control Act did not explicitly provide for protection against non-refoulement and that the current expulsion, return and extradition procedures and practices might expose individuals to torture.<sup>109</sup>

71. UNCT stated that a refugee bill intended to replace the Refugee (Control) Act of 1970 was pending before Parliament. Although this bill was a great improvement when compared to the Act, it retained a number of restrictions including the encampment policy.<sup>110</sup>

72. The Special Rapporteur on extreme poverty and human rights noted that information received indicated that the Refugee Bill was still awaiting approval by the Ministry of Justice before submission to Parliament. She urged Zambia to revise the Bill to remove provisions that restrict freedom of movement and the right to work of refugees, and to ensure that the Bill provides for the possibility of integration and naturalization, in line with international human rights standards. She also called on the Government to amend the current draft of the Constitutional Amendment Bill, which explicitly bans refugees from naturalization.<sup>111</sup>

73. UNHCR stated that the protection environment and operational context in Zambia was generally receptive and hospitable towards refugees and asylum seekers. Although most of the refugees were socially and economically integrated, legal integration was not facilitated under national law, and refugees were not eligible for naturalization, as they were not considered 'ordinary residents' under the Constitution.<sup>112</sup>

74. CEDAW recommended that Zambia investigate, prosecute and punish perpetrators of violence against women refugees and implement gender-sensitive approaches to asylum claims.<sup>113</sup>

75. UNHCR urged Zambia to integrate refugees, in particular women and girls, in its efforts to promote gender equality and to support the law enforcement and judicial authorities to take resolute steps to protect victims of sexual and gender based violence and to prosecute perpetrators, including through implementation of the Anti-Gender Based Violence Act.<sup>114</sup>

76. UNCHR urged the authorities to make its system for continuous issuance of birth certificates to new-born refugee children more efficient, including through decentralization of the process of reviewing applications for birth certificates and their issuance.<sup>115</sup>

77. UNHCR encouraged Zambia to review its nationality provisions contained in the current Constitution with a view to bringing them into line with the international standards to prevent statelessness contained in the 1951 Refugee Convention.<sup>116</sup>

## Notes

<sup>1</sup> Unless indicated otherwise, the status of ratifications of instruments listed in the table may be found in *Multilateral Treaties Deposited with the Secretary-General: Status as at 1 April 2009* (ST/LEG/SER.E/26), supplemented by the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, <http://treaties.un.org/>. Please also refer to the United Nations compilation on Zambia from the previous cycle (A/HRC/WG.6/2/ZMB/2).

<sup>2</sup> The following abbreviations have been used for this document:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination;
ICESCR	International Covenant on Economic, Social and Cultural Rights;
OP-ICESCR	Optional Protocol to ICESCR;
ICCPR	International Covenant on Civil and Political Rights;
ICCPR-OP 1	Optional Protocol to ICCPR;
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty;
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women;
OP-CEDAW	Optional Protocol to CEDAW;
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
OP-CAT	Optional Protocol to CAT;
CRC	Convention on the Rights of the Child;
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict;
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography;
OP-CRC-IC	Optional Protocol to CRC on a communications procedure
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;
CRPD	Convention on the Rights of Persons with Disabilities;
OP-CRPD	Optional Protocol to CRPD;
CPED	International Convention for the Protection of All Persons from Enforced Disappearance.

<sup>3</sup> Individual complaints: ICCPR-OP 1, art 1; OP-CEDAW, art. 1; OP-CRPD, art. 1; OP-ICESCR, art. 1; OP-CRC-IC, art.5; ICERD, art. 14; CAT, art. 22; ICRMW, art. 77; and CPED, art. 31; Inquiry procedure: OP-CEDAW, art. 8; CAT, art. 20; CPED, art. 33; OP-CRPD, art. 6; OP-ICESCR, art. 11; and OP-CRC-IC, art. 13; Inter-State complaints: ICCPR, art. 41; ICRMW, art. 76; CPED, art. 32; CAT, art. 21; OP-ICESCR, art. 10; and OP-CRC-IC, art. 12; Urgent action: CPED, art. 30.

<sup>4</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

<sup>5</sup> 1951 Convention relating to the Status of Refugees and its 1967 Protocol and 1954 Convention relating to the Status of Stateless Persons.

<sup>6</sup> Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Geneva Convention relative to the Treatment of Prisoners of War (Third Convention); Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol

- Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at [www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html](http://www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html).
- <sup>7</sup> International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 105 concerning the Abolition of Forced Labour; Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise; Convention No. 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation; Convention No. 138 concerning Minimum Age for Admission to Employment; Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.
- <sup>8</sup> International Labour Organization Convention No. 169, concerning Indigenous and Tribal Peoples in Independent Countries.
- <sup>9</sup> International Labour Organization Convention No. 189 concerning Decent Work for Domestic Workers.
- <sup>10</sup> Concluding observations of the Committee on the Elimination of Discrimination against Women (CEDAW/C/ZMB/CO/5-6), para. 48.
- <sup>11</sup> A/HRC/20/25, para. 58.
- <sup>12</sup> UNHCR submission to the UPR on Zambia, p. 7.
- <sup>13</sup> A/HRC/20/25, para. 43. See also A/HRC/14/31/Add.1, paragraph 106.
- <sup>14</sup> A/HRC/20/25, para. 44.
- <sup>15</sup> A/HRC/17/26/Add.4, para. 51. See also UNCT submission to the UPR on Zambia, page 2.
- <sup>16</sup> A/HRC/17/26/Add.4, para. 89.
- <sup>17</sup> CEDAW/C/ZMB/CO/5-6, para. 14.
- <sup>18</sup> UNICEF submission to the UPR on Zambia, p. 1.
- <sup>19</sup> CEDAW/C/ZMB/CO/5-6, para. 9.
- <sup>20</sup> *Ibid.*, para. 10.
- <sup>21</sup> Concluding observations of the Committee against Torture (CAT/C/ZMB/CO/2), para. 4.
- <sup>22</sup> According to article 5 of the rules of procedure for the International Coordination Committee (ICC) Sub-Committee on Accreditation, the different classifications for accreditation used by the Sub-Committee are: A: Voting Member (fully in compliance with the Paris Principles), B: Non-Voting Member (not fully in compliance with each of the Paris Principles or insufficient information provided to make a determination); C: No Status (not in compliance with the Paris Principles)
- <sup>23</sup> For the status of national institutions accredited by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), see A/HRC/20/10, annex.
- <sup>24</sup> CEDAW/C/ZMB/CO/5-6, para. 16.
- <sup>25</sup> CAT/C/ZMB/CO/2, para.8.
- <sup>26</sup> The following abbreviations have been used for this document:
- |              |   |
|--------------|---|
| CERD         | Committee on the Elimination of Racial Discrimination;        |
| CESCR        | Committee on Economic, Social and Cultural Rights;            |
| HR Committee | Human Rights Committee;                                       |
| CEDAW        | Committee on the Elimination of Discrimination against Women; |
| CAT          | Committee against Torture;                                    |
| CRC          | Committee on the Rights of the Child;                         |
| CRPD         | Committee on the Rights of Persons with Disabilities;         |
| CED          | Committee on Enforced Disappearance.                          |
- <sup>27</sup> Concluding observations of the Committee on the Elimination of Racial Discrimination (CERD/C/ZMB/CO/16), para. 25.
- <sup>28</sup> Concluding observations of the Human Rights Committee (CCPR/C/ZMB/CO/3), para. 28.
- <sup>29</sup> CAT/C/ZMB/CO/2, para.31.

- <sup>30</sup> CEDAW/C/ZMB/CO/5-6, para. 49.
- <sup>31</sup> CCPR/C/98/D/1520/2006;CCPR/C/104/D/1859/2009.
- <sup>32</sup> For the titles of special procedures, see [www.ohchr.org/EN/HRBodies/SP/Pages/Themes.aspx](http://www.ohchr.org/EN/HRBodies/SP/Pages/Themes.aspx) and [www.ohchr.org/EN/HRBodies/SP/Pages/Countries.aspx](http://www.ohchr.org/EN/HRBodies/SP/Pages/Countries.aspx).
- <sup>33</sup> CEDAW/C/ZMB/CO/5-6, paras. 19 and 20.
- <sup>34</sup> *Ibid.*, para. 18.
- <sup>35</sup> A/HRC/14/31/Add.1, p.1.
- <sup>36</sup> *Ibid.*, para. 111.
- <sup>37</sup> UNICEF submission to the UPR on Zambia, p. 2. See also UNCT submission to the UPR on Zambia, page 5.
- <sup>38</sup> CAT/C/ZMB/CO/2, para. 19.
- <sup>39</sup> *Ibid.*, para. 20.
- <sup>40</sup> CAT/C/ZMB/CO/2, para. 9.
- <sup>41</sup> *Ibid.* para. 24.
- <sup>42</sup> *Ibid.*, para. 22.
- <sup>43</sup> UNICEF submission to the UPR on Zambia, p. 4.
- <sup>44</sup> CAT/C/ZMB/CO/2, para. 11.
- <sup>45</sup> A/HRC/17/26/Add.4, para. 63.
- <sup>46</sup> CAT/C/ZMB/CO/2, para. 15.
- <sup>47</sup> UNICEF submission to the UPR on Zambia, p. 3.
- <sup>48</sup> CEDAW/C/ZMB/CO/5-6, para. 21.
- <sup>49</sup> A/HRC/17/26/Add.4, para. 93.
- <sup>50</sup> CEDAW/C/ZMB/CO/5-6, para. 22.
- <sup>51</sup> CAT/C/ZMB/CO/2, para. 21.
- <sup>52</sup> A/HRC/17/26/Add.4, para. 94.
- <sup>53</sup> CEDAW/C/ZMB/CO/5-6, paras. 23 and 24.
- <sup>54</sup> UNICEF submission to the UPR on Zambia, p. 4. See also UNCT submission to the UPR on Zambia, page 8.
- <sup>55</sup> UNICEF submission to the UPR on Zambia, p. 4. See also UNCT submission to the UPR, page 9.
- <sup>56</sup> CAT/C/ZMB/CO/2, para. 13.
- <sup>57</sup> *Ibid.*, para. 14.
- <sup>58</sup> CEDAW/C/ZMB/CO/5-6, para. 11.
- <sup>59</sup> *Ibid.*, para. 12.
- <sup>60</sup> *Ibid.*, para. 42.
- <sup>61</sup> A/HRC/17/26/Add.4, para. 66.
- <sup>62</sup> *Ibid.*, para. 100.
- <sup>63</sup> *Ibid.*, para. 102.
- <sup>64</sup> *Ibid.*, para. 103.
- <sup>65</sup> *Ibid.*, para. 108.
- <sup>66</sup> CAT/C/ZMB/CO/2, para. 22.
- <sup>67</sup> A/HRC/14/31/Add.1, para. 112.
- <sup>68</sup> CEDAW/C/ZMB/CO/5-6, para. 41.
- <sup>69</sup> UNICEF submission to the UPR on Zambia, p. 4. See also UNCT submission to the UPR on Zambia, page 9.
- <sup>70</sup> UNICEF submission to the UPR on Zambia, p. 6.
- <sup>71</sup> UNCT submission to the UPR on Zambia p. 7.
- <sup>72</sup> *Ibid.*, p. 7.
- <sup>73</sup> A/HRC/20/25, para. 46.
- <sup>74</sup> CEDAW/C/ZMB/CO/5-6, para. 25.
- <sup>75</sup> *Ibid.*, para. 26.
- <sup>76</sup> *Ibid.*, para. 31.
- <sup>77</sup> *Ibid.*, para. 32.
- <sup>78</sup> ILO Committee of Experts on the Application of Conventions and Recommendations, observation concerning ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) – Zambia, adopted 2011, published 101st ILC session (2012), first and second paragraphs.



- <sup>79</sup> ILO Committee of Experts on the Application of Conventions and Recommendations, observation concerning ILO Worst Forms of Child Labour Convention, 1999 (No. 182) – Zambia, adopted 2011, published 101st ILC session (2012), fourth paragraph.
- <sup>80</sup> ILO Committee of Experts on the Application of Conventions and Recommendations, observation concerning ILO Protection of Wages Convention, 1949 (No. 95) – Zambia, adopted 2011, published 101st ILC session (2012), first paragraph.
- <sup>81</sup> A/HRC/20/25, para. 54.
- <sup>82</sup> CEDAW/C/ZMB/CO/5-6, paras. 37 and 38.
- <sup>83</sup> A/HRC/20/25/Add.1, para. 52.
- <sup>84</sup> *Ibid.*, para. 53.
- <sup>85</sup> *Ibid.*, para. 48.
- <sup>86</sup> *Ibid.*, para. 50.
- <sup>87</sup> UNICEF submission to the UPR on Zambia, p. 5. See also UNCT submission to the UPR on Zambia, page 10.
- <sup>88</sup> UNICEF submission to the UPR on Zambia, p. 5.
- <sup>89</sup> A/HRC/17/26/Add.4, para. 62. See also CEDAW/C/ZMB/CO/5-6, paragraph 35.
- <sup>90</sup> UNICEF submission to the UPR on Zambia, p. 3. See also UNCT submission to the UPR on Zambia, page 6.
- <sup>91</sup> CEDAW/C/ZMB/CO/5-6, para. 33.
- <sup>92</sup> *Ibid.*, para. 34.
- <sup>93</sup> UNICEF to the UPR on Zambia, Submission, p. 3.
- <sup>94</sup> UNICEF submission to the UPR on Zambia, p. 6; UNCT submission to the UPR on Zambia, p. 7.
- <sup>95</sup> CEDAW/C/ZMB/CO/5-6, para. 36.
- <sup>96</sup> A/HRC/20/25, para. 57.
- <sup>97</sup> UNCT Submission to the UPR on Zambia, p. 12.
- <sup>98</sup> *Ibid.*, p. 8.
- <sup>99</sup> *Ibid.*
- <sup>100</sup> *Ibid.*
- <sup>101</sup> CEDAW/C/ZMB/CO/5-6, para. 29.
- <sup>102</sup> *Ibid.*, para. 30.
- <sup>103</sup> A/HRC/17/26/Add.4, para. 96.
- <sup>104</sup> UNICEF submission to the UPR on Zambia, p. 8.
- <sup>105</sup> UNHCR submission to the UPR on Zambia, p. 4.
- <sup>106</sup> A/HRC/20/25, para. 58.
- <sup>107</sup> UNHCR submission to the UPR on Zambia, p. 1.
- <sup>108</sup> UNCT submission to the UPR on Zambia, p. 3.
- <sup>109</sup> CAT/C/ZMB/CO/2, para. 6.
- <sup>110</sup> UNCT submission to the UPR on Zambia, p. 2.
- <sup>111</sup> A/HRC/20/25, para. 59.
- <sup>112</sup> UNHCR submission to the UPR on Zambia, p. 4.
- <sup>113</sup> CEDAW/C/ZMB/CO/5-6, para. 40. See also UNHCR submission to the UPR on Zambia, page 6.
- <sup>114</sup> UNHCR submission to the UPR on Zambia, p. 6.
- <sup>115</sup> *Ibid.*, p. 7.
- <sup>116</sup> *Ibid.*, p. 8.