



Violence against Women in Zambia

*Report prepared
for the Committee
on the Elimination
of Discrimination
against Women*

**The World Organisation Against Torture (OMCT)
operating the SOS-TORTURE NETWORK**

The World Organisation Against Torture (OMCT), based in Geneva, is today the largest international coalition of non-governmental organisations fighting against torture, summary executions, forced disappearances and all other forms of cruel, inhuman or degrading treatment or punishment.

OMCT coordinates a network – SOS-Torture – of more than 260 national, regional and international organisations in 85 countries. The urgent appeals issued by the network on behalf of victims or potential victims of violence reach more than 90,000 governmental institutions, non-governmental organisations, associations and interest groups.

OMCT has, since its inception, worked towards reinforcing and supporting the actions of organisations in the field, while avoiding substituting itself for them. The structure of the SOS-Torture network has enabled OMCT to reinforce local activity while favouring the access of national NGOs to international institutions.

OMCT provides support to victims or potential victims of torture through urgent campaigns (notably in favour of children, women and human rights defenders), through the provision of urgent legal, social and/or medical assistance to victims and by way of the submission of alternative country reports to the various United Nations treaty monitoring bodies.

Geneva, November 2002



**Committee
on the Elimination
of Discrimination
against Women**

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**Implementation of the Convention
on the Elimination of All Forms
of Discrimination against Women
by Zambia**

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The United Nations Convention on the Elimination of All Forms of Discrimination against Women was adopted by the General Assembly in 1979. In 1981, the Convention entered into force and the Committee on the Elimination of Discrimination against Women was formally established. The major task of the Committee is to review the reports submitted by the States parties in order to oversee the implementation of the Convention.

The issue of gender-based violence is not specifically addressed in the Convention, but it is however essential to its most fundamental provisions. In the general recommendation No. 19 adopted at its eleventh session in 1992, the Committee on the Elimination of Discrimination against Women formally extended the general prohibition on gender-based discrimination to include gender-based violence. The Committee affirmed that violence against women constitutes a violation of their internationally recognised human rights, regardless of whether the perpetrator is a public official or a private person.

One becomes inevitably aware of the fact that the States present reports that show only a one-sided image of reality, which is frequently incomplete. The case being, the effectiveness of this supervision and control depends on the quality of information available to the members of the various committees. Recent information, verified by reliable sources, is consequently indispensable.

In submitting alternative reports to the Committee on the Elimination of Discrimination against Women (CEDAW), OMCT seeks to provide *de facto* information concerning violence against women, including torture, in a specific country as well as analyse national legislation that fosters violence against women.

OMCT's reports highlight the legal provisions, both penal and civil, of the States concerned, which discriminate against women or which, without being discriminatory as such, become so through their application. Unequal power relations between men and women have led to the domination of and discrimination against women, which in turn leads to violence against women.

Furthermore, the reports draw attention to the lack of ways for the victims of violence to obtain reparation and identify the mechanisms guaranteeing the impunity of torturers.

The reports include recommendations for reform of *de facto* practices and legislation aimed at reducing the incidence of violence against women in the country in question.

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CARE-PROSPECT

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I

Preliminary Observations

Zambia ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in June 1985 with no reservations. The Optional Protocol to the Convention which establishes the competence of the Committee on the Elimination of Discrimination Against Women to receive and consider communications from individuals and groups has yet to be signed or ratified by Zambia.

At the international level, Zambia has ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention for the Elimination of Racial Discrimination (CERD) and the Convention on the Rights of the Child (CRC). While it has acceded to the Optional Protocol to the ICCPR, Zambia has yet to sign or ratify the two Optional Protocols to the CRC.

At the regional level, Zambia is a State party to the African Charter on Human and Peoples' Rights. Article 5 of the African Charter prohibits torture, cruel, inhuman or degrading punishment or treatment while Article 18 (3) provides that States Parties shall ensure the elimination of all forms of discrimination against women as well as protection for the rights of women "as stipulated in international declarations and conventions."

At its 26th Session in 1999, the African Commission on Human and Peoples' Rights approved a Draft Protocol to the African Charter on Human and Peoples' Rights which specifically deals with the rights of women. This Protocol, which has yet to be formally adopted by the African Union, contains detailed prohibitions on discrimination against women including trafficking, rape and other forms of violence.¹

Zambia is a signatory to the 1998 Addendum on the Prevention and Eradication of Violence Against Women and Children which now forms part of the Southern African Development Community's (SADC) Declaration on Gender and Development. The SADC Heads of State

1 – Organisation of African Unity, Draft Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, as adopted by the Meeting of Government Experts in Addis Ababa on 16 November 2001, CAB/LEG/66.6/Rev.1.

committed themselves in the Declaration to certain measures including; enacting and enforcing legislation aimed at the prevention and punishment of violence against women and children; providing information, protective and health services to women and children affected by violence; introducing gender-sensitive training programmes for law enforcement officials and the judiciary; and gathering data including statistics on the incidence of violence against women and children.²

Zambia has a dualist legal system and, therefore, national enabling legislation is required in order for international and regional treaties to become part of national law.³ The incorporation of international instruments into Zambian law is generally achieved through the adoption of regulations under existing legislation or through the enactment of a separate incorporating Act. Neither the Convention on the Elimination of Discrimination Against Women nor the Convention against Torture have been incorporated into national law through either of these methods.

Article 15 of the Constitution of Zambia provides that “a person shall not be subjected to torture, or to inhuman or degrading punishment or other like treatment.” This provision may not be derogated from or subjected to limitations during war or in times of national emergency. Article 23 of the Constitution defines prohibited discrimination as including discrimination on the grounds of sex. Under Article 28, victims of violations of Articles 11 to 26 of the Constitution may petition the High Court for redress.

Although Zambia has made these commitments to the promotion and protection of all human rights at the national, sub-regional, regional and international levels, violations of human rights including sex discrimination, torture and ill treatment continue to occur. Women in Zambia currently face many obstacles to the realisation of their human rights including high rates of violence against women in the family, in the community and by the State, discrimination in the application of customary laws relating to family and inheritance rights, low levels of representation in political and other decision-making structures, a lack of access to education and employment opportunities, poor health care services and the limited availability of affordable contraception.

2 – Southern African Development Community, Addendum to the 1997 Declaration on Gender and Development by SADC Heads of State or Government on the Prevention and Eradication of Violence Against Women and Children, Grand Baie, 14 September 1998, www.sardc.net/widsaa/sgm/1999/sgm_erdviol.html

3 – Zambia, Initial report to the Committee against Torture, CAT/C/47/Add.2, 26 December 2000, para. 8.

The combined third and fourth periodic reports submitted by the Government of Zambia (U.N. Doc. CEDAW/C/ZAM/3-4) contain a great deal of information concerning the *de jure* and *de facto* status of women in the country. OMCT welcomes the candour with which the government report describes the obstacles that it faces in implementing the Convention, however, it remains concerned by the fact that despite its recognition of these problems, little has been done to overcome them. In particular, OMCT remains concerned by the lengthy delays that have surrounded the adoption of legislation and policy in relation to the promotion and protection of the human rights of women in Zambia.

OMCT regrets the fact that aside from one short paragraph, the Government report contains no information on violence against women and girls in Zambia.⁴ In light of the report's lack of attention to the manner in which gender shapes the form of torture and other types of violence, the circumstances in which this violence occurs and its consequences, including the availability and accessibility of remedies, OMCT has chosen to concentrate in this report on torture and other forms of violence against women in Zambia.

4 – Zambia, Third and Fourth Periodic Reports Submitted under the Convention on the Elimination of All Forms of Discrimination against Women, U.N. Doc. CEDAW/C/ZAM/3-4, 12 August 1999, p. 67 which states that: “Studies have shown that there is an increase in the incidence of domestic and gender violence, including wife battery, wife rape, defilement and germicide in Zambia, partly attributed to a combination of social and cultural factors.”

General Observations on the Status of Women in Zambia



Zambian society is characterised by deeply-embedded patriarchal cultural values, widespread discrimination against women and a virtual absence of women in positions of power in the socio-economic and political spheres. The lack of female representation in decision-making structures has reinforced gender biases in government policy-making and, as a result, the bulk of programmes aimed at promoting the human rights of women are currently being carried out by non-governmental organisations.⁵

In its concluding observations on the report of Zambia in 1996, the Human Rights Committee expressed its concern over the situation of women who “despite some advances, continue to be *de jure* and *de facto* the object of discrimination, particularly as regards education, access to work and participation in public affairs.”⁶ The Committee also drew attention to the application of customary law in matters of personal status, marriage, divorce and inheritance rights and highlighted the fact that this has frequently worked to reinforce “outdated attitudes concerning the role and status of women.” Finally, the Committee regretted the “lack of measures to adequately address problems raised with regard to violence against women and the high maternal mortality rate resulting from abortion.”

OMCT is concerned that the observations made by the Human Rights Committee in relation to the status of women in Zambia in 1996 are still equally pertinent today and regrets the fact that little has been done over the past six years to substantially improve the human rights situation of women in the country.

5 – Patricia Malasha, *CARE-PROSPECT Report on Violence Against Women in Zambia*, October 2001, on file with the author. See also Zambia, Third and Fourth Periodic Reports Submitted under the Convention on the Elimination of All Forms of Discrimination against Women, U.N. Doc. CEDAW/C/ZAM/3-4, 12 August 1999, which states on p. 15: “Women in Zambia constitute over 53 percent of the electorate, yet they represent only 12 percent of elected officials.”

6 – Human Rights Committee, Comments on Zambia, U.N. Doc. CCPR/C/79/Add.62, 3 April 1996, para. 9.

II.1 *De jure* discrimination against women

As mentioned previously, the Zambian Constitution guarantees the formal equality of women and men. Importantly, however, the Constitution contains a limitation in Article 23 (4) (c) in that it reserves the right to enact discriminatory provisions with respect to “adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law.” This is a particularly significant limitation upon the right to be free from discrimination as it is precisely in the areas of family and property law that women are often disadvantaged in relation to men.

Women are frequently discriminated against in the application of family law in Zambia, for example, while the legal age for statutory marriage is 21 years for men, it is only 18 years for women and many women are married under customary law at a much younger age. Early marriage exposes women to increased risks of violence including marital rape as well as to teenage pregnancy and the health risks that this may entail.⁷

De jure discrimination against women also persists in relation to immigration entitlements in that the Zambian Immigration Act provides that in situations where a Zambian man marries a non-national, his spouse immediately becomes a Zambian resident and can apply for citizenship after 10 years of residency, whereas there is no such provision for Zambian women married to foreign nationals.⁸

II.2 Customary law

The continued administration of customary law by Local Courts throughout Zambia has wide-ranging implications for the status of women. Under Chapter 29 of the Laws of Zambia, local courts are charged with the application of customary laws in relation to non-statutory marriages, divorce, reconciliation, child custody, payment of *malobolo* or *lobola*, pregnancy suits, compensation for adultery and the distribution of the property of persons who die intestate.⁹

7 – Lewis Mwanangombe, “Study on Zambia’s High Maternal Deaths Concluded”, PANA, 2 February 2000, www2.womensnet.org.za.

8 – Delphine Hampande, “Immigration Act Discriminatory Against Women”, *The LRF News*, No. 28, June 2001, www.lrf.org/zm/Newsletter/june2001/. See also Committee on the Elimination of Discrimination Against Women, Concluding Observations: Zambia, UN Doc. A/49/38, paras. 318-368 (1994), para. 331.

9 – Afronet, *The dilemma of local courts in Zambia*, 1998, p. 5.

Customary law is therefore particularly relevant in matters relating to family law and inheritance rights, areas in which women are often subjected to gender-based discrimination. In its concluding comments on the report by Zambia in 1994, the Committee on the Elimination of Discrimination Against Women expressed its great concern regarding the violation of the rights of women under customary marriage laws and called upon the government to “study the possibility of codifying the customary laws so that those found to be in violation of the Convention could be reformed or abolished.”¹⁰ This recommendation does not appear to have been implemented by the government of Zambia to date.

In 1998, only 16 out of a total of 907 local court justices were female and the lack of female representation amongst the judiciary at this level has had an important impact on the interpretation of customary law.¹¹ The gendered application of customary law is compounded, in many cases, by the fact that the judges do not have formal legal qualifications in addition to their knowledge of customary law and they are, therefore, frequently unaware of developments in human rights law that need to be considered in the application of customary law.¹² In addition, the participants in proceedings before local courts are not entitled to legal representation and this often has a prejudicial impact on the ability of the parties and, in particular women, to present their claims.¹³

Customary law clearly differs from one area of Zambia to another and it is thus difficult to generalise about its application, however, a comparative study of the administration of customary law in Zambia conducted by the nongovernmental organisation Afronet in 1998 found that there were several areas in which women faced discrimination as a result of the gendered implementation of customary law.¹⁴ The Afronet study highlighted the fact that rights under customary law derive from family - as opposed to individual - status and that, as a result, women often have very limited decision-making power in areas related to family or property law.

The study notes that under Bemba custom, a parent or guardian of a girl has the right to sue the person who first has sexual intercourse with her

10 – Committee on the Elimination of Discrimination Against Women, Concluding Observations: Zambia, UN Doc. A/49/38, paras. 318-368 (1994), paras. 361, 364.

11 – Afronet, *The dilemma of local courts in Zambia*, 1998, p. 17.

12 – *Ibid.*, p. 18.

13 – *Ibid.*, p. 17.

14 – *Ibid.*

(*ulupe lwa chisungu*). All Zambian customs recognise the right of parents or guardians to sue a person for making their child or ward pregnant. Importantly, under customary law, the action cannot be brought by the girl who is the victim of the illegal sexual relationship as the right to sue is derived from the family's status and can only be claimed by the family. Moreover, in these cases, the girl who is the subject of the claim is actually joined with the man as a co-defendant.¹⁵

Customary law marriages are not valid unless a *malobolo* or *lobola* payment is made to the wife's family. If the payment of *malobolo* is not made within a certain time following the marriage, actions for elopement and for the payment of the outstanding *malobolo* can be begun at the local court.¹⁶ Importantly, the government report acknowledges that the number of marriages requiring the payment of *lobola/malobolo* has increased in recent years and that "in urban areas some members of tribal groups where *lobola* was not traditionally paid have now taken up the custom."¹⁷

While the use of customary law to regulate questions of family law may not necessarily result in violence and other forms of discrimination against women, the "purchasing" of brides through the payment of *malobolo* (discussed in more detail in section 3.2 below) frequently leads to women being treated as commodities and exposes them to an increased risk of psychological and physical violence at the hands of their husbands and extended families.

Another of the issues highlighted by the Afronet survey was the persistence of the custom of ritual purification following the death of a spouse whereby the surviving partner has sexual intercourse with a relation of the deceased in order to appease the spirit of the dead.¹⁸ Local courts in Zambia are often called upon to adjudicate claims for ritual cleansing, particularly where there is a refusal by the relatives of the deceased spouse to provide a sexual partner for the surviving spouse due to a failure of the survivor to pay the *malobolo* or to fulfil other financial obligations related to the marriage. As the survey notes, the legality or social desirability of the practice of sexual purification is never considered

15 – *Ibid.*, p. 11.

16 – *Ibid.*

17 – Zambia, Third and Fourth Periodic Reports Submitted under the Convention on the Elimination of All Forms of Discrimination against Women, U.N. Doc. CEDAW/C/ZAM/3-4, 12 August 1999, p. 19.

18 – Afronet, *The dilemma of local courts in Zambia*, 1998, p. 11.

by the courts and the cases documented demonstrate that this kind of ritual purification is more frequently practised by widowers than by widows. There is also a concern that the practice of sexual cleansing has contributed to the spread of HIV in Zambia.¹⁹

OMCT is concerned that customary law, as it is currently applied by local courts in Zambia, may lead to and perpetuate violence and other forms of discrimination against women. While local court justices are well-versed in the various customary laws, they are not trained in human rights law and, as a result, seldom take into consideration the gender dimensions or criminal aspects of the cases before them.²⁰ OMCT would call upon the government of Zambia to consider adopting the recommendations made by the Committee on the Elimination of Discrimination Against Women in 1994 with regard to the codification of customary law and the abolition of any practices that are incompatible with international and national human rights norms. OMCT would also call upon the government to ensure that measures are taken to guarantee that increased numbers of women are appointed to serve as local court judges and to ensure that local court judges are provided with adequate training in human rights law.

II.3 Structural adjustment programmes and economic development

The structural adjustment programmes undertaken in Zambia at the instigation of international financial institutions have reportedly had a particularly detrimental impact upon women and girls who have borne the brunt of rising levels of poverty and unemployment, declining educational opportunities and cuts in the provision of basic services including health care.²¹ The increase in the number of families currently living below the poverty line that has resulted, in part, from the application of structural adjustment programmes has disproportionately affected the growing number of female-headed households currently living in Zambia.²²

19 – *Ibid.*, p. 17.

20 – Patricia Malasha, *CARE-PROSPECT Report on Violence Against Women in Zambia*, October 2001, on file with the author.

21 – Mark Lynas, Letter from Zambia, *The Nation*, 14 February 2000, www.corpwatch.org/; See also Legal Resources Foundation, *The LRF News*, No. 28, June 2001, www.lrf.org.zm/Newsletter/june2001/

22 – Afronet, *The Zambia Human Rights Report 1997*, Chapter 4: Economic and Social Rights, www.oneworld.org/afronet/reports/human_6.htm

II.4 Educational and employment opportunities

Women and girls continue to face discrimination in their access to educational and employment opportunities.

While equal numbers of girls and boys are currently attending primary school, far fewer girls go on to complete secondary or tertiary education.²³ As a consequence of this disparity, women continue to experience higher illiteracy rates than men and this tends to penalise them in the labour market.²⁴ A 1998 study revealed that 18 percent of persons aged between 10 and 19 in Lusaka were illiterate and, of these, 80 percent were female. The study also found that for every poor man in Lusaka, there were 12 poor women, and that most of these poor women were concentrated in low-paying, low-skilled jobs with little job security.²⁵ Women currently hold less than 10 percent of senior management level positions in the private sector and they are equally under-represented at the management level in the public sector.²⁶

As mentioned previously, women in Zambia have been particularly affected by increasing levels of unemployment and by the simultaneous diminution of employment opportunities in the formal sector.²⁷ Many women have no choice but to seek precarious work in the informal sector and others, as discussed in more detail in section 6.2 below, have had to turn to sex work in order to provide for their families. The alarming scale of the HIV/AIDS pandemic in Zambia and the government's increasingly strict regulation of prostitution have forced many Zambian women to migrate to neighbouring countries in order to find work in the sex industry.²⁸

The disastrous economic situation in Zambia and the corresponding marginalisation of women in the workforce means that women are

23 – Michelo Hangungule, Zambia: Social and Economic Disparities, in Social Watch 2001 Report, www.socialwatch.org. See also UNICEF, Statistics – Zambia, 26 December 2000, www.unicef.org/

24 – *Ibid.* See also Patricia Malasha, CARE-PROSPECT Report on Violence Against Women in Zambia, October 2001, on file with the author.

25 – Anthony Mukwita, “Development-Zambia: Urban Women are the Poorest of the Poor”, *Inter Press Service*, Lusaka, September 1998, www.oneworld.org.

26 – Wilcliff Sakala, “Towards a new equality?”, winmagazine.org/issues.

27 – *The Post* (Lusaka), “Liberalisation throws women onto the streets”, 4 September 2001; Dorcas Chileshe, “Zambia: Skilled Women Better Placed to Fight Poverty”, *IGC Internet*, 8 June 2001.

28 – AFP, “Zambia exports prostitutes as local market shrinks”, *Daily Mail and Guardian* (South Africa), 29 December 1999.

frequently financially dependent upon husbands and partners thereby making it extremely difficult for them to leave situations of domestic violence.²⁹

II.5 Political representation

Very small numbers of women in Zambia have been elected to political or judicial positions and women are reportedly under-represented in government at all levels. In October 2000, the Chair of the Permanent Human Rights Commission (PHRC) stated that less than 10 per cent of women in Zambia are involved in the process of political decision-making.³⁰ There are just two women in the 25-member Cabinet. Of the 150 members of the national legislature, only 16 are women, while there are nine female permanent secretaries out of the total of 46.³¹

II.6 Reproductive rights and health care

Zambia is characterised by exceptionally high levels of fertility coupled with relatively high levels of maternal and infant mortality.³² According to statistics collected by UNICEF for the year 2000, the crude birth rate (births per 1,000 of a population) was 39, the infant mortality rate (number of deaths to infants under one year of age per 1,000 live births in a given year) was 112 and the maternal mortality rate (number of deaths of women due to pregnancy or childbearing complications per 100,000 live births in a given year) was 650.³³ Another study conducted in 2000 found that 60 percent of Zambian girls were either pregnant or already mothers by the age of 18.³⁴

29 – Patricia Malasha, *CARE-PROSPECT Report on Violence Against Women in Zambia*, October 2001, on file with the author.

30 – U.S. Department of State, Country Reports on Human Rights Practices 2000, www.state.gov/.

31 – Wilcliff Sakala, “Towards a new equality?”, winmagazine.org/issues.

32 – Zarina Geloo, “Zambia: Pressure to Give Birth Steals Many Lives”, Women’s Feature Service, 16 November 2000, www.safemotherhood.org; Lewis Mwanangombe, “Study on Zambia’s High Maternal Deaths Concluded”, PANA, 2 February 2000, www2.womensnet.org.za.

33 – UNICEF, Statistics – Zambia, 26 December 2000, www.unicef.org/

34 – Lewis Mwanangombe, “Study on Zambia’s High Maternal Deaths Concluded”, PANA, 2 February 2000, www2.womensnet.org.za.

The low status of women in Zambia is reflected in the fact that women frequently have very limited decision-making power in relation to reproductive issues.³⁵ Statistics for the year 2000 show that only 26 per cent of married women aged between 15-49 years were regularly using contraception.³⁶ According to information received from the International Planned Parenthood Federation, there are several factors that work to place women in a subsidiary role in relation to decision-making on family planning and these include; the fact that many health workers in Zambia demand spousal consent from women seeking contraception; the high value that is still attached to large families in rural areas; and the fact that some church groups continue to associate the use of contraceptives with promiscuity. These social pressures, combined with the fact that most women have only limited access to affordable contraception, have acted as strong disincentives to the use of contraception by women.³⁷

Abortion is legal in Zambia although the conditions that women have to fulfil in order to qualify for an abortion under the *Termination of Pregnancy Act* are so onerous (approval is required from 3 different physicians) that most women end up using unofficial means to terminate unwanted pregnancies.³⁸

The fact that women do not have effective access to safe services for the termination of unwanted pregnancies, coupled with the socio-economic pressures that discourage women from using contraception, mean that many women in Zambia are forced to undergo illegal abortions which are often undertaken by unqualified persons in unsanitary conditions. The Center for Reproductive Law and Policy and the Human Rights Committee have both reported that large numbers of women in Zambia die every year as a result of complications arising from unofficial abortions.³⁹

35 – Patricia Malasha, *CARE-PROSPECT Report on Violence Against Women in Zambia*, October 2001, on file with the author.

36 – UNICEF, Statistics – Zambia, 26 December 2000, www.unicef.org/

37 – International Planned Parenthood Federation, Zambia Country Profile, 1998, <http://ippfnet.ippf.org/>. See also Zarina Geloo, “Zambia: Pressure to Give Birth Steals Many Lives”, Women’s Feature Service, 16 November 2000, www.safemotherhood.org.

38 – Zarina Geloo, “Zambia: Pressure to Give Birth Steals Many Lives”, Women’s Feature Service, 16 November 2000, www.safemotherhood.org.

39 – Center for Reproductive Law and Policy, *Violations of Women’s Reproductive Rights: A Selection of Testimonials from Around the World*, cited in UNFPA, *Forms of Gender-based Violence and Their Consequences*, <http://www.unfpa.org/>; Human Rights Committee, Comments on Zambia, U.N. Doc. CCPR/C/79/Add.62, 3 April 1996, para. 9.

The steady decline in the provision of obstetric and gynaecological care for women which has occurred in the context of reduced overall spending on healthcare, as well as the devastating impact of the HIV/AIDS pandemic have also contributed to the large numbers of maternal and infant deaths in Zambia.⁴⁰

In addition, women and girls in Zambia often suffer from poor nutritional status and diseases related to under-nutrition and this situation has apparently worsened over the course of the last decade. A study on the health of women and children in Zambia revealed that malnutrition rates amongst these groups increased from 39 percent in 1991 to 59 percent in 1999.⁴¹ It is reportedly the practice of most of Zambia's seven tribes to bar women in rural areas from eating food such as eggs, milk and the fatty parts of chicken and beef as there is a belief that this will turn them into "bad" people.⁴² Furthermore, in times when food is particularly scarce, women and girls are expected to eat after men and boys and sometimes they may not eat at all.⁴³

40 – Legal Resources Foundation, The LRF News, No. 28, June 2001, www.lrf.org.zm/Newsletter/june2001/. See also OMCT's report "Zambia: Violations of Economic, Social and Cultural Rights, Violence and the Protection Against Torture" and information received from the Zambia Association for Research and Development (ZARD) on file with the author, October 2001.

41 – Singy Hanyona, "Zambia sees fall in health of women and children", *Earth Times News Service*, December 2000.

42 – Zarina Geloo, "Zambia: Pressure to Give Birth Steals Many Lives", Women's Feature Service, 16 November 2000, www.safemotherhood.org.

43 – *Ibid.*



Violence Against Women and Girls in the Family

Violence against women is a very serious problem in Zambia and, given that most of this violence occurs in the domestic sphere, OMCT is particularly concerned by the fact that the issue of domestic violence has yet to be adequately addressed by the government. In its Conclusions and Recommendations on the Zambian report in November 2001, the United Nations Committee against Torture expressed its concern regarding the “incidence of violence against women in society, which is illustrated by reported incidents of violence in prisons and domestic violence” and recommended that programmes be established to “prevent and combat violence against women, including domestic violence.”⁴⁴

III.1 Domestic violence

Domestic violence continues to occur on a large scale in Zambia. While recent initiatives, such as the holding of a “gender violence tribunal” in order to sensitise the public, policy-makers and law enforcement officials to the issue and the establishment of a Victim Support Unit (VSU) are to be encouraged, much work remains to be done.⁴⁵ Importantly, although the Government has recently adopted a National Gender Policy, there is at present no specific national plan for the prevention and eradication of violence against women in the family.⁴⁶

Although there is a scarcity of research concerning the amplitude of domestic violence in Zambia, a survey published in 1998 by the World Health Organisation (WHO) revealed that 40 per cent of the women interviewed reported having been subjected to physical abuse by their husbands or partners at some stage during the year 1997.⁴⁷ A study

44 – UN Committee against Torture, Conclusions and Recommendations : Zambia, UN Doc. CAT/C/XXVII/Concl.4, November 2001, paras. 7 (c) and 8 (h).

45 – See for example: *The LRF News*, No. 23, June 2001, www.lrf.org.zm/Newsletter/june2001; SADC Gender Monitor, “A Life Free From Gender Violence”, 1999, www.sardc.net/vidsaa/

46 – Patricia Malasha, *CARE-PROSPECT Report on Violence Against Women in Zambia*, October 2001, on file with the author.

47 – International Planned Parenthood Federation, *The facts about gender-based violence*, November 1999, www.ippf.org/resource/gbv/ma98/1.htm.

undertaken by the Young Women's Christian Association (YWCA) in 1999 found that most women reported gender-based violence as a common occurrence in their relationship and that this violence most often took the form of rape, beating, stabbing, burning, murder and threats of murder. The same study discovered that recorded cases of domestic violence had increased by 253 percent between 1998 and 1999.⁴⁸ According to statistics gathered by UNIFEM, 263 women in Zambia were murdered by male partners or family members during 1996.⁴⁹

The persistence of traditional beliefs which privilege men as the holders of authority within the family continue to contribute to the high levels of domestic violence experienced by women in Zambia. For women, marriage is often referred to as the “*shipikisha club*” which means the “enduring club” and emphasises the fact that women are generally expected to silently suffer any violence or ill treatment that their husbands or male partners choose to inflict upon them.⁵⁰ The strong social pressure faced by women to endure violence at the hands of male family members means that women are very unwilling to report incidences of family-based violence thereby leaving themselves vulnerable to ongoing psychological and physical abuse as well as to the risk of HIV infection.⁵¹

As mentioned in section 2.2 on customary law above, marriage in Zambia is a question of status which involves not only the married couple but also members of their extended families. Many women in Zambia are subjected to violence by members of their husband's family and this violence is often exacerbated by the practice of the payment of *malobolo* or bride price (see section 3.2 below) as the family feels that they have purchased the bride and may, as a result, subject her to violence and other forms of ill treatment. A 1994 study by a Zimbabwe-based NGO reported that 11 percent of murders of women in Zambia were committed by family members other than their husband's.⁵²

48 – Patricia Malasha, Excerpt from YWCA Femicide Report cited in *CARE-PROSPECT Report on Violence Against Women in Zambia*, October 2001, on file with the author.

49 – Economic Commission for Africa, *Assessment Report On: Women's Legal and Human Rights*, Sixth African Regional Conference on Women, 22-26 November 1999, Addis Ababa, Ethiopia, November 1999, p. 20.

50 – Patricia Malasha, *CARE-PROSPECT Report on Violence Against Women in Zambia*, October 2001, on file with the author.

51 – *Ibid.*

52 – Alice Kwaramba, “Rights delayed are rights denied”, *Southern African News Features*, No. 24, December 2000 issue, www.sardc.net

At present, the criminal law remedies available to women who are victims of domestic violence are limited to the commencement of proceedings for assault occasioning actual bodily harm under Section 248 of Chapter 87 of the Zambian Penal Code. Women who have suffered physical injury as a result of domestic violence may also sue their husbands or partners for damages in the civil courts⁵³ and physical violence is recognised as providing a motive for divorce under both customary and statutory law.⁵⁴ Importantly, however, none of these remedies cover women who are victims of psychological violence.

Police, magistrates and other state officials who come into contact with women who have been victims of domestic violence in Zambia are not systematically trained in dealing with complaints of violence against women in the family. According to information received, women are often pressured by law enforcement officials into withdrawing complaints of violence and to reconciling with their abusive husbands, partners or parents-in-law.⁵⁵ In the context of a 1999 divorce case involving domestic violence, the principal magistrate of Lusaka, Mr. Edwin Zulu, reportedly declared that battered women should not sue their husbands for compensation for injuries suffered if they later wished to reconcile as “in reconciliation the idea is to forgive and not to punish.” The magistrate went on to encourage the woman in the case at issue to pursue reconciliation and stated that “the fact that he is your husband is the more reason you should reconcile.”⁵⁶

In 1999, at the Sixth African Regional Conference on Women, the Government of Zambia reported that it was considering introducing specific legislation on domestic violence.⁵⁷ It would appear that since that time, no concrete measures have been taken for the drafting and adoption of specific legislation on domestic violence despite the fact that there seems to be a growing awareness amongst policy-makers of the necessity for such legislation. In an August 2000 letter to the Permanent Secretary of the Gender in Development Division, the Director of Public

53 – The LRF News, No. 28, June 2001, www.lrf.org.zm/Newsletter/june2001.

54 – *The LRF News*, No. 28, June 2001, www.lrf.org.zm/Newsletter/june2001.

55 – “Battered women can commence civil litigation,” *The LRF News*, No. 13, November 2000, www.lrf.org.zm/Newsletter/novemb99; U.S. Department of State, Country Reports on Human Rights Practices 2000, www.state.gov.

56 – “Battered women can commence civil litigation,” *The LRF News*, No. 13, November 2000, www.lrf.org.zm/Newsletter/novemb99.

57 – Economic Commission for Africa, *Assessment Report On: Women’s Legal and Human Rights*, Sixth African Regional Conference on Women, 22-26 November 1999, Addis Ababa, Ethiopia, November 1999, p. 13.

Prosecutions, Mulekabei Mulekabei stated that “negative customary perceptions coupled with a lack of specific legislation on domestic violence and the absence of special procedures for dealing with complaints of spouse battering have, to a large extent, contributed to the incompetent manner in which law enforcement officers and courts handle cases of violence within the home” and he recommended that a Domestic Violence Act be enacted.⁵⁸

III.2 Marital Rape

OMCT is very concerned by the fact that the Penal Code of Zambia does not currently contain an explicit prohibition on rape in the context of marriage.

III.3 Bride price and early marriages

As mentioned in the section on customary law above, the payment of *malobolo* (*lobola*) or bride price is still a common feature of many marriages in Zambia. Several women’s rights groups in Zambia, particularly those working in the southern part of the country, have noted that the practice of making *malobolo* or *lobola* payments often exposes women to violence at the hands of husbands and parents-in-law as it is felt that the payment entitles them to treat the bride as a virtual slave.⁵⁹

The early marriage of girls is closely linked to the payment of *malobolo* and also frequently exposes girls to an increased risk of domestic violence including wife battering and marital rape.⁶⁰ Women and Law in Southern Africa (WLSA), a non-governmental women’s rights organisation, has reported that the early marriage of girls for financial gain is a widespread practice in Zambia that has increased in recent years due to growing poverty, particularly in rural areas.⁶¹

58 – Madube Pasi, “Violence Against Women Worrying”, *The Monitor for Human Rights and Development*, Issue Number 119, August 2000, www.oneworld.org/afronet/monitor119/gender.htm

59 – Off Our Backs, “Zambia: Women demand end to bride price”, 3 January 2001.

60 – Obiageli Nwankwo, *Child Marriage as Child Abuse*, Civil Resource Development and Documentation Centre (CIRDDOC), CIRDDOC Series No. 6, Nigeria, 2001.

61 – Times of Zambia, “Unreported sexual offences worrying women’s law body”, 3 May 2001. See also Hazel Barrett and Angela Browne, “Environmental and Social Change in Zambia: the value of children to rural households”, ESCR Global Environmental Change Programme, www.sussex.ac.uk/Units/gec/pubs/briefing/brief-22.htm

As mentioned previously, it is the local courts that are often called upon to apply customary law in relation to the validation of non-statutory marriages or in the adjudication of disputes over the payment of *malobolo*. Local courts in Zambia therefore have a direct responsibility in this area of law and should, in the view of OMCT, take more active measures to prevent all social practices, including the payment of bride price and early marriages, that place women and girls at risk of violence.

III.4 Incest

Sections 159 and 161 of the Zambian Penal Code criminalize incest whether committed by male or female family members.

According to studies conducted by Women and Law in Southern Africa (WLSA) and the Young Women's Christian Association (YWCA), incest is a pervasive problem in Zambian society.⁶² The studies undertaken by the YWCA and by WLSA highlight the fact that incest is a crime that largely goes unreported in Zambia. Many victims are afraid of the consequences of reporting perpetrators of incest and, frequently, there is an unwillingness amongst other family members to take action even in cases where they know that children are being abused.⁶³ The fact that the person committing the incest is often an economic provider serves as an additional disincentive to the reporting of this crime as members of the family are afraid of losing their only income as a result.⁶⁴

Even in cases where victims do report the crime, the generally uncooperative attitude of law enforcement officials and the judiciary and the lack of procedural protections for victims lead to many cases of incest being withdrawn.⁶⁵ The social and procedural obstacles faced by victims of incest in Zambia were clearly apparent in a recent case of a complaint lodged by a nine year old girl who had reportedly been raped by her father. The court rejected the case due to the fact that, subjected to the pressure of a public hearing, the girl was incapable of testifying about her

62 – Times of Zambia, “Unreported sexual offences worrying women’s law body”, 3 May 2001.

63 – “Seven year old girl contracts syphilis”, *The LRF News*, No. 25, March 2001, www.lrf.org.zm/Newsletter/march2001

64 – Times of Zambia, “Unreported sexual offences worrying women’s law body”, 3 May 2001.

65 – Madube Pasi, “Violence Against Women Worrying”, *The Monitor for Human Rights and Development*, Issue Number 119, August 2000, www.oneworld.org/afronet/monitor119/gender.htm

experience. In dismissing the case, the judge declared that given that the girl had been unable to testify under oath, she did not appear to be “sufficiently intelligent” for the court to accept her written statement.⁶⁶

Violence Against Women and Girls in the Community

IV

IV.1 Rape and sexual assault

Rape and other forms of sexual violence against women are widespread in Zambia and, despite the fact that there are provisions in the Penal Code which criminalize sexual violence including rape and “defilement”, these are inconsistently and unevenly applied. According to official statistics, over 4,700 cases of rape were reported in Zambia between 1991 and 1998 and of these, approximately 30 percent resulted in conviction and five percent in acquittal while the remainder were either dismissed or left unresolved.⁶⁷

Law enforcement personnel are, in general, ill-equipped to handle complaints from women and girls alleging that they have been victims of rape and other forms of sexual violence. The discriminatory attitudes of many police and members of the judiciary have led to a lack of confidence in the law enforcement response to acts of violence against women and thus to the subsequent under-reporting of rape and other forms of violence against women in Zambia.⁶⁸

Sections 133 and 134 of Chapter 87 (entitled “offences against morality”) of the Zambian Penal Code provide for a sentence of life imprisonment for persons found guilty of rape or attempted rape. Rape is defined in Section 132 of the Code as “... unlawful carnal knowledge of a woman or girl,

66 – Charles Mubambe, “Droits-Zambie: Un jugement clément provoque l’indignation des défenseurs des droits de l’Homme”, *International Press Service*, 9 January 2001.

67 – U.S. Department of State, Country Reports on Human Rights Practices 2000, www.state.gov/.

68 – Charles Mubambe, “Droits-Zambie: Un jugement clément provoque l’indignation des défenseurs des droits de l’Homme”, *International Press Service*, 9 January 2001.

without her consent, or with her consent, if the consent is obtained by force or by means of threats or intimidation of any kind, or by fear of bodily harm, or by means of false representations as to the nature of the act, or, in the case of a married woman, by personating her husband.”

Abduction and indecent assaults are also criminalized under Sections 135-137 of the Penal Code and these crimes are punishable by prison sentences ranging from seven to fourteen years. The Penal Code also contains the crime of “defilement” which is committed by “any person who unlawfully and carnally knows any girl under the age of sixteen years” and is punishable by life imprisonment.

The failure of courts in Zambia to apply appropriate sanctions to persons convicted of crimes involving sexual violence against women and girls is reportedly widespread and has been the subject of protest by local human rights organisations on several occasions.⁶⁹ Of concern to OMCT is the information contained in the government report which states that the judiciary often reflect prevailing social stereotypes when adjudicating cases of violence against women and notes that there have been instances in which judges have discounted the testimony of rape victims on the basis that the women were “indecently dressed.”⁷⁰

There is evidence to suggest that in spite of the heavy penalties provided for under the Penal Code, the perpetrators of rape are often punished with little more than a small fine, thus sending the message that rape is not considered by the judiciary to constitute a serious criminal offence which should be met with an appropriately severe punishment.⁷¹ In addition, the application of customary law, particularly in cases of “defilement” has led to these crimes commonly being settled through the payment of money to the victim’s family rather than being pursued through the criminal justice system, thereby reinforcing the idea that the rape of women and girls is an offence against family status rather than constituting a serious criminal offence against the victim herself.⁷²

69 – Charles Mubambe, “Droits-Zambie: Un jugement clément provoque l’indignation des défenseurs des droits de l’Homme”, International Press Service, 9 January 2001.

70 – Zambia, Third and Fourth Periodic Reports Submitted under the Convention on the Elimination of All Forms of Discrimination against Women, U.N. Doc. CEDAW/C/ZAM/3-4, 12 August 1999, p. 20.

71 – Perpetual Sichikwenkwe, “WLSA Studies Justice Delivery System”, *The LRF News*, No. 26, April 2001, www.lrf.org.zm/Newsletter/april2001.

72 – “Jail all defilers – Kajoba”, *The LRF News*, No. 15, March 2000, www.lrf.org.zm/Newsletter/march00.

The Zambian Legal Resources Foundation stated in June 2001 that they were pursuing the case of a 14 year old girl who was “defiled and impregnated by a 43 year-old married man” in November 2000.⁷³ According to the information received, when the family of the girl reported the rape to the Chawama police in May 2001, the Chief of Investigations advised them to sue the perpetrator rather than bringing criminal charges as he claimed that so much “time had elapsed since the incident and there was now insufficient evidence” despite the fact that the girl had been thoroughly examined when she was admitted to the University Teaching Hospital following a miscarriage in May 2001. The girl’s legal representative stated that he had advised the family to report the matter to another police post noting that “the girl has undergone both mental and physical torture and the chances of her getting HIV are very high.”

In another case documented by the Legal Resources Foundation, a 14 year old girl was raped by the local Chief responsible for the application of customary law at the local court level. The information alleges that when the matter was reported to the Mporokoso police station, the Chief promised to pay the girl’s family a sum of money if the police would agree to take no further action.⁷⁴

Other sources have reported a recent upsurge in the number of cases involving rape or sexual assault against girls.⁷⁵ While there is an absence of reliable statistical data in relation to the number of rapes being committed against girls in Zambia, several local organisations have reported that the widespread view that men infected with HIV or other sexually transmitted diseases may cure themselves if they have sex with a virgin has contributed to the increased incidence of rape.⁷⁶

73 – *The LRF News*, No. 28, June 2001, <http://lrf.org.zm/Newsletter/june2001>.

74 – Legal Resources Foundation, *The LRF News*, No. 29 July 2001, www.lrf.org.zm/Newsletter/july2001/

75 – Salma Ginwalla, “Solidarity with the 39”, Women for Change in Zambia, 3 February 2000; Sharon K. Sichilongo, “State drops case against 39 men and women who were arrested for protesting against the rape and strangling to death of four children”, *The Times of Zambia*, 3 February 2000; Perpetual Sichikwenkwe, “WLSA Studies Justice Delivery System”, *The LRF News*, No. 26, April 2001, www.lrf.org.zm/Newsletter/april2001.

76 – *The Times of Zambia*, “Unreported sexual offences worrying women’s law body”, 3 May 2001; Dean E. Murphy, “Africa’s Silent Shame”, *Los Angeles Times*, 16 August 1998.

IV.2 Forced prostitution

Sections 140 and 144 of Chapter 87 of the Zambian Penal Code criminalize “procuring defilement of women by threats or fraud or administering drugs” and “detention with intent or in a brothel”. Sections 146 and 147 of the Code provide that male and female persons living on the earnings of prostitution or aiding and soliciting for prostitution shall be guilty of a misdemeanour.

In 1997, the Special Rapporteur on the sale of children, child prostitution and child pornography noted that Zambia had one of the highest levels of child prostitution in Africa. The Special Rapporteur stated that the large number of children working as prostitutes in Zambia was a direct consequence of structural adjustment programmes which had increased unemployment and poverty thereby forcing many children into prostitution in order to provide income for their families.⁷⁷

IV.3 Trafficking

The Zambian Penal Code does not criminalize trafficking in persons *per se* although the provisions of the Penal Code which criminalize “detention with intent or in a brothel” and several of the offences in Chapter 25 of the Code (kidnapping, abduction, kidnapping or abducting in order to subject person to grievous harm, slavery etc. and buying or disposing of any person as a slave) are all relevant to the crime of trafficking. Article 24 of the Constitution prohibits trafficking in “young persons” who are defined as being persons under the age of fifteen, however there is no general Constitutional prohibition on trafficking in persons.

While trafficking in women and girls is not considered to be a major problem in Zambia, there have, nevertheless, been some reports concerning trafficking including abductions of women for work as domestic servants and prostitutes by the UNITA rebels in Angola.⁷⁸

In 1999, the interim report to the General Assembly by the Special Rapporteur on the sale of children, child prostitution and child pornography referred to a case of child trafficking that was uncovered in

77 – Ofelia Calcetas-Santos, Report by the Special Rapporteur on the sale of children, child prostitution and child pornography, UN Doc. E/CN.4/1997/95, 7 February 1997, para. 45.

78 – U.S. Department of State, Country Reports on Human Rights Practices 2000, www.state.gov/.

Lusaka in 1999. The case led to the arrest of an Australian man who had attempted to traffic a group of five women and girls to Australia ostensibly to work as dancers. A local non-governmental organisation reported the incident after one of the victims enrolled in its rehabilitation programme.⁷⁹

Also in 1999, a Zambian woman was reportedly arrested by Interpol for attempting to procure girls in Sesheke, a small rural town in western Zambia, in order to transport them to South Africa.⁸⁰ In addition, there have been some other reports of girls being trafficked from Zambia to Botswana and then on to different countries in Africa for work in the sex tourism trade.⁸¹

Violence Against Women Perpetrated by the State



There have been numerous reports of torture and ill treatment being perpetrated by State officials against women who have been arrested or detained.⁸² Some of these women have been arrested as a result of their membership of political opposition groups or of human rights organisations, while others have been held in detention for their alleged involvement in common law crimes or family disputes.

The torture, cruel, inhuman and degrading treatment that women in Zambia are exposed to at the hands of State agents tends to be characterised by sexual violence as well as by degrading treatment such as being forced to parade naked in front of groups of male law enforcement officials. As with acts of torture committed against men in Zambia, the

79 – Ofelia Calcetas-Santos, Interim report by the Special Rapporteur on the sale of children, child prostitution and child pornography, UN Doc. A/55/297, 10 August 2000, para. 62.

80 – AFP, “Zambia exports prostitutes as local market shrinks”, *Daily Mail and Guardian* (South Africa), 29 December 1999.

81 – Coalition Against Trafficking in Women, *Factbook on Global Sexual Exploitation*, 1999, www.uri.edu/artsci/wms/hughes/catw/zambia.htm.

82 – Information received from the Zambia Association for Research and Development (ZARD) on file with the author, October 2001.

perpetrators of this violence have largely gone unpunished and the victims have, in the main, not been granted compensation for the injuries that they have suffered. In addition, women who have been the victims of torture involving rape or other forms of sexual violence are very unlikely to report the full extent of the torture they have suffered due to shame and fear and it is, of course, for this very reason that male law enforcement officials tend to use these forms of torture against women.

The Zambia Association for Research and Development (ZARD) has reported that Princess Nakatindi Wina, a prominent female politician belonging to the Movement for Multiparty Democracy (MMD) was allegedly tortured during her detention following the coup attempt in 1997. While in detention in the Mukobeko maximum security prison, Princess Wina reportedly had a miscarriage as a result of the torture that she had suffered. Her claim for compensation arising from the torture and ill treatment was recently rejected by the Zambian courts.⁸³

In February 1994, the Munyama Human Rights Commission heard evidence concerning the case of Mrs. Barbara Mulenga who was arrested, stripped naked and then subjected to torture over a period of nine days in order to force her to disclose the location of K 1.6 million (approximately \$ 430 USD) that she had allegedly hidden from her husband. The torture included having her hands and feet bound and being suspended from a pole between two tables while three police officers beat her genital area with a hosepipe. The Chair of the Commission, Mr. Bruce Munyama, found that Mrs. Mulenga had been subjected to “savage treatment by the male police officers”, however, the officials allegedly responsible are still working and to date no compensation has been paid to the victim.⁸⁴

The Legal Resources Foundation (LRF) Livingstone Legal Advice Centre has reported that certain police officers in Livingstone routinely demand sex from women detainees in exchange for their release or assistance in escaping. The LRF has also acted on a complaint involving the rape of a detained Namibian woman by a police officer at the Libuyu police station in May 2001. To date, there have been no disciplinary proceedings brought against the law enforcement official allegedly responsible.⁸⁵

83 – Information received from the Zambia Association for Research and Development (ZARD) on file with the author, October 2001. See also *The Times of Zambia*, 20 February 2001.

84 – Information received from the Zambia Association for Research and Development (ZARD) on file with the author, October 2001. See also *The Times of Zambia*, 9 February 1994.

85 – Madube Pasi Siyauya, “Female detainees sexually abused – Livingstone”, LRF News, Number 27, May 2001, www.lrf.org.zm/Newsletter/may2001.

V.1 Violence against human rights defenders

There have also been numerous reports that human rights defenders engaged in protests against impunity for the perpetrators of acts of violence against women in Zambia have been subjected to arbitrary arrest and ill treatment in police custody.⁸⁶ According to press reports, on 10 September 2001, Emily Sikazwe, executive director of the non-governmental women's rights organisation Women for Change, was arrested and subjected to degrading treatment, including being undressed in public. Commenting on the case, the executive director of the Zambian non-Governmental Organisations Co-ordinating Committee, Grace Kanyanga, stated that "undressing a woman, mother and leader is not only alien to our culture but is also a violation of her human rights."⁸⁷

V.2 Police harassment of sex workers

Prostitution is prohibited in Zambia and women working as prostitutes are reportedly frequently arrested, detained and subjected to violence by law enforcement personnel. According to information received, sex workers in Zambia are generally charged with loitering or indecent dress as opposed to prostitution as the police believe that the offence of prostitution is too difficult to prove in court.⁸⁸ In Livingstone in December 2000, police reportedly engaged in several raids aimed at clearing the streets of sex workers and there were allegations that excessive force was used.⁸⁹ In another case from Lusaka which took place in April 2002, a female sex worker was arrested by the police and allegedly tortured after refusing to have sex with the five police officers on duty at Woodlands police station on the night of her arrest.⁹⁰

86 – Salma Ginwalla, "Solidarity with the 39", Women for Change in Zambia, 3 February 2000; Sharon K. Sichilongo, "State drops case against 39 men and women who were arrested for protesting against the rape and strangling to death of four children", *The Times of Zambia*, 3 February 2000.

87 – Webster Malido, "NGOs condemn women's leader's arrest", *The Post* (Lusaka), 10 September 2001.

88 – AFP, "Zambia exports prostitutes as local market shrinks", *Daily Mail and Guardian* (South Africa), 29 December 1999.

89 – AFP, "Zambian police crack down on prostitution in tourist town", 7 December 2000, www.aegis.com/news/afp/2000/AF001279.html.

90 – Mutinta Himunyanga, "Sex worker relives police ordeal", *The Monitor*, Issue Number 224, April 23-25, 2002.

Several women's organisations have called for the government to legalise prostitution as they note that in the current economic climate many women have no choice but to engage in sex work in order to provide for their families and that they should not be criminalized as a result. Other groups have also advocated the decriminalisation of prostitution for public health reasons as it is thought that sex workers would be more willing to receive information on safe sex and HIV/AIDS prevention if they were not fearful of incurring sanctions related to their status as sex workers.⁹¹

OMCT is concerned that the criminalisation of prostitution in Zambia increases the vulnerability of female sex workers to harassment and violence at the hands of law enforcement officials. Moreover, the prohibition on prostitution means that sex workers who have been victims of rape and other forms of violence will be particularly unwilling to report these crimes to the authorities, thereby leading to impunity for the perpetrators.

V.3 Corporal punishment

Of concern to OMCT are reports that in the Kasama district, Chiefs sitting as customary law judges in local courts have recently made orders for the corporal punishment of persons convicted of offences under customary law. These punishments have allegedly included whipping, beatings and sexual abuse.⁹² This situation is particularly worrying given that in 2000, the High Court of Zambia passed a judgement in which it outlawed all forms of corporal punishment.⁹³

V.4 Prison conditions

Prison conditions in Zambia are deplorable and detainees are frequently subjected to overcrowded cells, a lack of sanitary facilities, poor food and inadequate medical attention.⁹⁴ During the strike by magistrates and local

91 – Legal Resources Foundation, *The LRF News*, No. 15, March 2000.

92 – Legal Resources Foundation, *The LRF News*, No. 29 July 2001, www.lrf.org.zm/Newsletter/july2001/

93 – The Human Rights Observer, "Human Rights and the Judiciary", Vol. 2, 2000, www.oneworld.org/afronet/theobserver/.

94 – Information received from the Zambia Association for Research and Development (ZARD) on file with the author, October 2001. See also Afronet, *The Zambia Human Rights Report 1997*, Chapter 6: Police violation of human rights, www.oneworld.org/afronet/reports/human_8.htm.

court justices that lasted from February until May 2001, conditions in prisons and remand centres reportedly deteriorated dramatically with overcrowding becoming an even more serious problem and an outbreak of cholera occurring in Livingstone prison.⁹⁵

Section 58 of the *Zambian Prisons Act* provides that prisoners may only be searched by persons of the same sex and that such searches must never take place in the presence of a person of the opposite sex. Section 60 of Part IX of the *Prisons Act* provides for the separation of male and female prisoners to prevent “as far as is practicable their seeing or communicating with each other.” It is unclear whether these measures have in fact been implemented and OMCT would like to request the Government to provide further information concerning the situation of women in detention.

In its *Conclusions and Recommendations on the Zambian report in November 2001*, the United Nations Committee against Torture expressed its concern regarding the “incidence of violence against women in society, which is illustrated by reported incidents of violence in prisons ...” and recommended that programmes be established to “prevent and combat violence against women”⁹⁶ OMCT would like to request the government to provide information on the steps that it is considering taking to implement the recommendations of the Committee.

95 – Perpetual Sickikwenkwe, “Magistrate’s Strike Worsens Prison Conditions”, *The LRF News*, No. 26, April 2001, www.lrf.org/zm/Newsletter/april2001.

96 – UN Committee against Torture, *Conclusions and Recommendations : Zambia*, UN Doc. CAT/C/XXVII/Concl.4, November 2001, paras. 7 (c) and 8 (h).

VI

Conclusions and Recommendations

OMCT welcomes the fact that Zambia has ratified most of the major international and regional instruments aimed at the promotion and protection of human rights. However, OMCT remains concerned by the fact that the provisions of these international and regional instruments have yet to be adequately incorporated into the domestic law of Zambia and would call upon the Government to ensure that legislation is passed for this purpose. OMCT would also welcome the ratification by Zambia of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women which would enable women in Zambia to lodge individual complaints concerning violations of the rights guaranteed under the Convention. In addition, OMCT would call upon the government to make declarations under Articles 21 and 22 of the Convention Against Torture accepting the competence of the Committee Against Torture to examine communications and individual complaints.

Women in Zambia face many obstacles to the realisation of their human rights and although the Government has taken some steps to integrate gender concerns into its policy-making through the adoption of a National Gender Policy, much work remains to be done in order to ensure that women do not continue to experience discrimination. In the view of OMCT, there is a particularly urgent need to address social attitudes which reinforce the subordinate position of women and leave them vulnerable to violence in the family, in the community and at the hands of State officials. For this reason, OMCT would recommend that the Government develop a comprehensive strategy for the prevention and elimination of all forms of violence against women and that this strategy include training for State officials at all levels in dealing with complaints of violence against women as well as a general public education campaign aimed at changing social attitudes concerning the status of women.

OMCT regrets the fact that the Government report does not contain any detailed information concerning violence against women and girls in Zambia and would call upon the Government to provide such information, including statistics on rates of violence against women in its next periodic report to the Committee on the Elimination of Discrimination Against Women.

OMCT is very concerned that there are certain areas of law in which *de jure* discrimination against women persists and would recommend that the

government take urgent action to amend legislation concerning the age of statutory marriage, family law, inheritance rights and nationality so as to guarantee women equal rights with men in these areas.

OMCT is concerned that customary law, as it is currently applied by local courts in Zambia, may lead to and perpetuate violence and other forms of discrimination against women. For this reason, OMCT would call upon the government of Zambia to consider adopting the recommendations made by the Committee on the Elimination of Discrimination Against Women in 1994 with regard to the codification of customary law and the abolition of any practices that are incompatible with international and national human rights norms. OMCT would also call upon the government to ensure that measures are taken to guarantee that increased numbers of women are appointed to serve as local court judges and to ensure that local court judges are provided with adequate training in human rights law.

The impact of structural adjustment programmes and the rising levels of poverty and unemployment that have frequently resulted from their application must also be examined from a gender perspective. OMCT is particularly concerned by the fact that it is women who have been most affected by increasing poverty and unemployment as well as by cutbacks in basic services including health, housing and education. The detrimental impact of structural adjustment programmes and the fact that women are, as a result, often economically dependent upon male family members means that they are frequently forced to remain in violent relationships. OMCT would call upon the government to undertake research into the impact of structural adjustment programmes upon women with a view to formulating effective policies to ensure that women do not continue to be adversely affected by their implementation.

OMCT remains concerned by the fact that women are under-represented in decision-making structures in Zambia. The absence of women in positions of influence in the civil service, in parliament and in the judiciary means that gender is rarely taken into account in the formulation of law and policy or in its implementation. For this reason, OMCT would welcome the development of affirmative action programmes designed to increase the numbers of women in policy and decision-making structures at all levels.

The low status of women in Zambia is reflected in the fact that women frequently have very limited decision-making power in relation to reproductive rights issues. OMCT would recommend that the Government urgently engage in public health campaigns aimed at changing attitudes

towards the use of contraceptives. OMCT is also concerned that health care workers continue to demand spousal consent prior to distributing contraceptives to women and would call upon the Government to ensure that all health care workers are given adequate training in reproductive rights issues. The complex procedural conditions established under the *Termination of Pregnancy Act* have led many women wishing to terminate pregnancies to do so unofficially and it is reported that large numbers of women in Zambia die every year as a result of complications arising from illegal abortions. OMCT would therefore call upon the Government to consider simplifying the procedures under the *Termination of Pregnancy Act* in order to ensure that women do have effective access to its provisions.

Domestic violence is reportedly increasing in Zambia and OMCT is very concerned that the Government has yet to develop a comprehensive policy and legislative response to the problem. While the idea of adopting specific legislation on domestic violence has been discussed informally by the Government over the past few years, there appears to have been little movement on this issue. OMCT would like to call upon the Government to urgently discuss, draft and adopt specific legislation for the prevention, prohibition and punishment of domestic violence. This legislation should be drafted in such a way that it covers both physical and psychological violence and that it provides for protective mechanisms including restraining orders.

In addition, greater attention must be paid to the factors that currently prevent women and girls in Zambia from lodging complaints in relation to domestic violence. These factors include traditional social beliefs concerning the subordinate status of women in family relationships as well as the lack of specialised training amongst law enforcement personnel and members of the judiciary who frequently mirror prevailing social stereotypes concerning domestic violence and, as a result, often actively discourage women and girls from making complaints. OMCT would like to suggest the development of broad-based public awareness campaigns concerning domestic violence, if possible in conjunction with local human rights organisations.

In relation to the training of law enforcement personnel and members of the judiciary, OMCT would recommend that comprehensive training on responding to complaints of domestic violence be provided to all personnel currently in service as well as to potential police officers and judges in the context of their basic training. OMCT would also strongly recommend that the Victim Support Unit (VSU) which currently deals with cases of

domestic violence be provided with adequate resources in order to guarantee its effective functioning and that the number of officers allocated to the Unit be increased.

OMCT is very concerned that marital rape is not explicitly prohibited under the Zambian Penal Code and would call upon the Government to amend the Code in order to ensure that rape in the context of marriage is criminalised.

The payment of bride price (*malobolo*) and the practice of early marriages under customary law in Zambia may have the effect of increasing the vulnerability of women and girls to violence at the hands of their husbands and parents-in-law. Given that customary law is enforced by local courts, OMCT is of the view that these courts have a direct responsibility in this area and should be required to take more active measures to prevent all social practices, including the payment of bride price and early marriages, that place women and girls at risk of violence. In this respect, OMCT would like to reiterate the need for the Government to engage in a codification of customary law which would include the elimination or modification of any customary laws that are incompatible with national and international human rights standards. Moreover, measures should be taken to ensure that greater numbers of women are appointed as local court justices and that all of these justices are provided with appropriate training in human rights law.

Law enforcement personnel in Zambia are, in general, ill-equipped to handle complaints from women and girls alleging that they have been victims of rape and other forms of sexual violence. The discriminatory attitudes of many police and members of the judiciary have led to a lack of confidence in the law enforcement response to acts of violence against women and thus to the subsequent under-reporting of rape and other forms of violence against women in Zambia. For this reason, OMCT would recommend that all law enforcement personnel and members of the judiciary be given appropriate gender-sensitive training in responding to cases of rape and other forms of violence against women. OMCT would further recommend that greater numbers of female police officers be recruited and that these officers be, as a priority, assigned to specialised units created to respond to cases of violence against women.

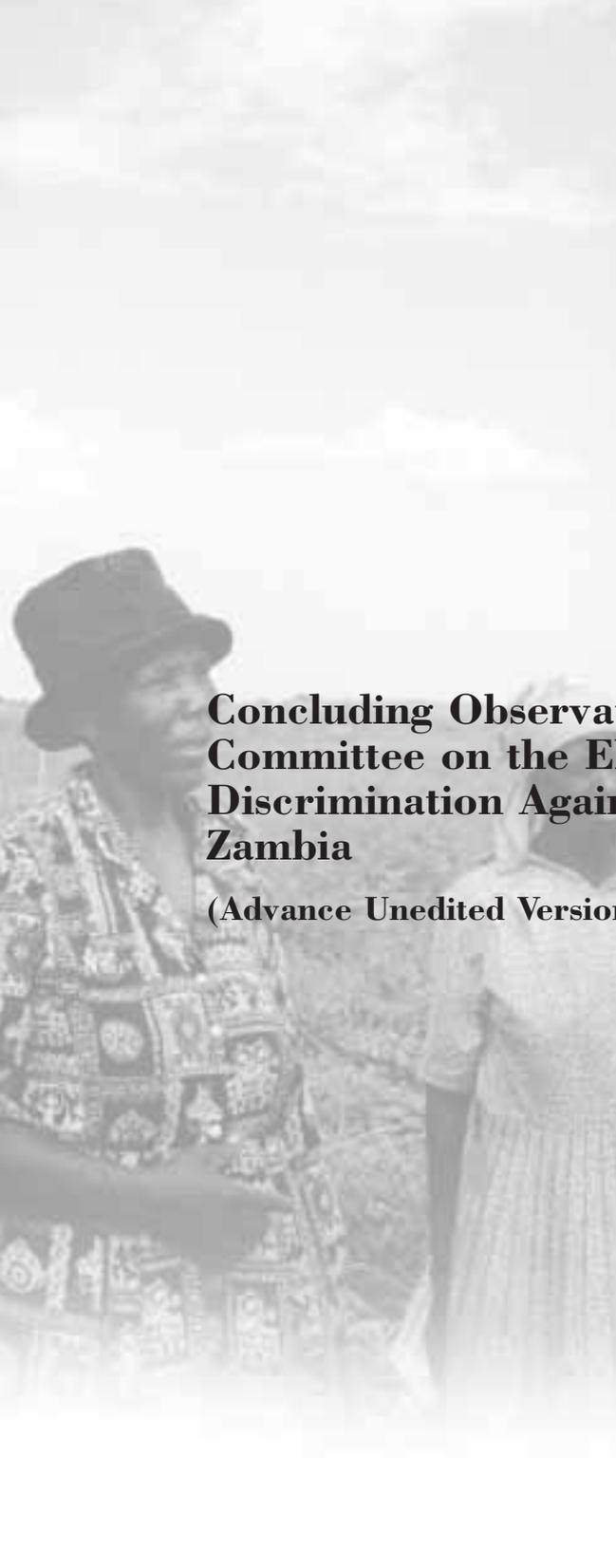
OMCT is very concerned by the fact that even though heavy penalties are provided in the Penal Code for acts of rape and sexual assault, the perpetrators of rape are often punished with little more than a small fine,

thus sending the message that rape is not considered by the judiciary to constitute a serious criminal offence which should be met with an appropriately severe penalty. OMCT would therefore recommend that guidelines be issued to all judges and magistrates at the local and district court levels concerning sentencing in cases of rape and sexual assault and that consideration be given to appointing greater numbers of female judges and magistrates.

OMCT is gravely concerned by reports that women who have been arrested or detained are frequently subjected to rape, sexual violence and other forms of torture. Of further concern is the fact that most of the perpetrators of these acts of violence against women reportedly enjoy impunity. OMCT would call upon the Government to ensure that all acts of torture and ill treatment of women in detention are appropriately punished and the victims provided with adequate reparations.

OMCT would recommend that the Government adopt measures to ensure that all law enforcement personnel are aware of the provisions of human rights law in relation to the protection of women against violence. In addition, OMCT would like to suggest that greater efforts are made to ensure that at least one female law enforcement official is present during the interrogation of women suspects and that women are always housed in separate detention facilities and supervised by female wardens.

Finally, OMCT would insist upon the need for the Government to fully implement all of the provisions of the Convention for the Elimination of All Forms of Discrimination Against Women, the Beijing Rules and Platform for Action and the Declaration on the Elimination of Violence Against Women as these instruments provide detailed protection for women against violence in the family, in the community and at the hands of State officials.



**Committee
on the Elimination
of Discrimination
against Women**

*27th session
3-21 June 2002*

**Concluding Observations of the
Committee on the Elimination of
Discrimination Against Women:
Zambia**

(Advance Unedited Version)

1. Introduction by the State party

1. The Committee considered the combined third and fourth periodic reports of Zambia (CEDAW/C/ZAM/3-4) at its 551st and 552nd meetings, on 4 June 2002.

2. In introducing the report, the representative of Zambia stated that her Government had demonstrated its political will and commitment to eradicating discrimination against women, had acceded to or ratified international treaties that guaranteed human rights without distinction based on sex or other grounds and had joined the international community in endorsing several plans of action for the full, equal and beneficial integration of women in all development activities.

3. Like most Commonwealth countries, Zambia had a legal regime wherein international instruments were not self-executing and required enabling domestic legislation to be directly enforceable. Although the Convention had not been fully incorporated through such legislation, there were certain provisions in Zambian law that reflected the Convention's standards. A priority for Zambia was the incorporation of the international human rights instruments to which it was a party.

4. Acts that caused physical, sexual or psychological harm or suffering to women and children were condemned in the Zambian Constitution, Part III, which bestows upon all persons in Zambia regardless of race, place of origin, political opinion, colour, creed, sex or marital status, the rights and freedom enshrined therein.

5. Fifty point seven per cent of Zambia's population of 10.3 million were women, and according to the Zambia demographic health survey (1996), fertility rates, although declining, were still high at 6.1 children per woman, with the majority of women becoming mothers or pregnant by 19 years of age. As of 1995, life expectancy was 43 years for women and 41 years for men. The Zambian population is young with 45 per cent being 15 years or younger.

6. Certain centuries-old discriminatory customary laws and practices were still prevalent in Zambia, and the arbitrary administration of customary law had been identified as a major hindrance to the elimination of discrimination against women. The disparity between women and men was a consequence of historical and cultural factors that contributed to a division of labour where men were encouraged to participate in production,

and women to work in the traditional sector. The Government, civil society and non-governmental organizations were cooperating to sensitize women, men, girls and boys about their rights and the course of action to be taken in discrimination cases. A Technical Committee to Review Laws, Enforcement Mechanisms and Support Systems relating to gender-based violence had recommended that customary law that was not contrary to natural justice should be codified, and a law development commission was documenting the diverse customary laws and practices with a view to eliminating those that were repugnant to gender equality. Steps were also being taken to eliminate stereotyping in school textbooks, introduce gender training for curriculum development officers, and encourage girls to enrol in technical courses.

7. Women's equal participation in public life had been one of Zambia's priority areas, as women were underrepresented at all levels of decision-making in Government, parliament, political parties, the private sector, special public service committees and other institutions. Women constituted over 53 per cent of the electorate; yet, less than 12 per cent of elected officials were women, and women constituted less than 10 per cent of senior government officials. In 1997, the Government had signed the Southern African Development Community (SADC) Declaration on Gender and Development that committed Governments to ensure that there was at least 30 per cent participation of women in politics and decisionmaking by 2005. In the 2001 general elections, 19 out of 202 women candidates had been elected to parliament, with civil society playing a vital role in encouraging women to participate in the electoral process as voters and candidates. The Government had adopted a public service training policy which contained affirmative action measures to train women employed in the civil service so that they would qualify for higher positions.

8. Twenty-five per cent of government university scholarships were reserved for women who qualified for university entrance; and lower cut-off marks for girls at eighth and tenth grades had been introduced. All-boy technical schools had been transformed into co-educational schools; and a policy of readmitting girls to school following childbirth had been introduced.

9. Zambia had ratified the International Labour Organization (ILO) Convention on equal pay for work of equal value and had repealed laws that banned women from certain types of work. However, women continued to encounter difficulties in gaining access to training and

employment and the Government was currently giving those matters active and special attention.

10. Women's reproductive health, particularly in the rural areas, remained an area of concern. The Zambia demographic and health survey had estimated the maternal mortality rate at 649 deaths per 100,000 live births and a 1995 study by the University Central Hospital indicated that 75 per cent of maternal deaths occurred among teenage mothers. Traditional birth attendants were being trained to supplement the efforts of medical personnel, especially in rural areas, and family life education to educate girls and boys about, inter alia, the dangers and prevention of HIV/AIDS, as well as youth-friendly areas in all health centres and provision of counselling and testing in maternal and child health and family planning clinics had been introduced.

11. Although rural women were involved in subsistence agriculture, unpaid domestic work and casual or seasonal labour, they were classified as housewives, unemployed or economically inactive. The unreliable or non-existent road infrastructure in most rural areas made it more difficult for subsistence farmers, particularly women, to market their produce. That was compounded by women's lack of collateral, limited education, lack of access to credit and other means of production.

12. Family relations were governed by a dual legal system of statutory and customary laws, with customary law being largely biased against women. Customary laws were unwritten and administered in male-dominated local courts mainly presided over by untrained justices with patriarchal attitudes. The Government intended to ensure that women and men were treated equally in marriage and family matters and were given the right to decide freely whether or when to have a child.

13. Zambia's Constitution and Citizenship Act had been amended in 1989 to remove the discriminatory provision that stipulated that a foreign spouse of a Zambian man could apply for citizenship after three years of residence in Zambia, while the foreign spouse of a Zambian woman required 10 years of residence. The requirement that women obtain the written consent of their husbands before their children were included in their passports had been abolished.

14. In concluding, the representative indicated that implementation of the Convention had been affected by embedded traditional beliefs, a lack of appreciation of gender issues and concerns, and limited financial and human resources. Limited collaboration between the Government and civil

society had also had a negative impact. The Government of Zambia would seek to facilitate further change in areas and considered collaboration with civil society as a key element in ensuring that women were not discriminated against in government endeavours to attain sustainable development.

2. Concluding comments of the Committee

Introduction

15. The Committee commends the State party on its combined third and fourth periodic reports, which is in accordance with the Committee's guidelines for the preparation of reports. It also commends the State party for the comprehensive and frank written replies to the questions posed by the Committee's pre-session working group and for the oral presentation of the delegation, which sought to clarify the current situation of the implementation of the Convention in Zambia.

16. The Committee commends the State party for its delegation and appreciates the delegation's willingness to engage in frank and constructive dialogue with the Committee.

Positive aspects

17. The Committee welcomes efforts to strengthen the national machinery on women, the introduction of gender mainstreaming and the adoption of several policies and programmes to eliminate discrimination against women, including the National Gender Policy and the establishment of the Gender in Development Division, under the Office of the President.

18. The Committee commends the efforts made by the State party to review existing laws that discriminate against women. It also notes the enactment of the Marriage Act and the Intestate Succession Act, which provide protection for women in marriage and inheritance.

19. The Committee commends the introduction of the Programme for the Advancement of Girl Child Education, the reservation of 25 per cent of

government scholarships exclusively for women who qualify for entry into universities and the lowering of cut-off points for girls to qualify for entry to grades 8 and 10 in schools in order to redress inequality in the education sector.

Principal areas of concern and recommendations

20. The Committee expresses concern at the contradictory provisions contained in the Constitution whereby article 11 guarantees the equal status of women and article 23 (4) permits discriminatory laws to exist in the area of personal law namely: revenue allocation, adoption, marriage, divorce, burial, devolution of property on death, or other matters of personal law and customary law with respect to any matter.

21. The Committee urges the State party to repeal article 23 (4) of the Constitution, which permits discrimination in the area of law which most affects women

22. The Committee is concerned that the Convention has not been directly incorporated into domestic law and its provisions cannot be invoked before the Courts.

23. The Committee recommends that the State party incorporate the Convention into domestic law.

24. The Committee is concerned that the provisions in existing laws, including new laws such as the Marriages Act and the Employment Act, discriminate against women directly or indirectly.

25. The Committee calls upon the State party to review and reform its legislation to ensure it is in harmony with the Convention.

26. The Committee is concerned that existing constitutional and other legal rights of women to redress for discrimination are not being properly implemented or enforced.

27. The Committee calls upon the State party to strengthen law enforcement and to provide effective remedies through the courts for women who experience discrimination. The Committee requests the State party to develop training programmes on women's human rights for judges and law enforcement officers and to disseminate information to the public, especially women.

28. The Committee expresses concern at the high level of violence against women and girls, including domestic violence and marital rape. It also expresses serious concern about the number of older women who have been murdered for superstitious reasons by family members or by others in Zambia in recent years.

29. The Committee urges the State party to assign the issue of violence against women high priority and to recognize that such violence constitutes a violation of the human rights of women under the Convention. In the light of its general recommendation 19, the Committee requests the State party to enact legislation on domestic violence as soon as possible and to ensure that violence against women and girls constitutes a criminal offence and that female victims of violence have immediate means of redress and protection. The Committee also recommends gender training for all public officials, in particular law enforcement officials and the judiciary, as well as health workers, to educate them about the consequences of all forms of violence against women and girls. It also recommends the establishment of counselling services for the victims and public awareness campaigns in order to adopt and implement a zero tolerance policy with regard to all forms of violence against women and girls. The Committee requests the State party to report fully in its fifth periodic report on the issue of violence against women and girls.

30. While welcoming the State parties commitment to achieving 30 per cent participation by women in politics by 2005, the Committee notes with concern that the participation of women in political and public life is limited, and that women are underrepresented at all levels of decision-making in Government, parliament, political parties, the private sector, special public service committees and other institutions in the community.

31. The Committee recommends that the State party take measures to increase the number of women in decision-making positions at all levels and in all areas. It also recommends that the State party introduce temporary special measures, in accordance with article 4, paragraph 1, of the Convention, to strengthen its efforts to promote women to positions of power, supported by special training programmes and awareness-raising campaigns aimed at underlining the importance of women's participation in decision-making at all levels.

32. While noting that the State party has made progress in addressing the basic health needs of women in Zambia, the Committee expresses concern at the high level of maternal and infant mortality, low life expectancy, very

high teenage pregnancies and unsafe abortions and lack of adequate healthcare facilities and family planning services, particularly in the rural areas.

33. The Committee recommends that the State party formulate policies and allocate adequate resources to improve the status of women's health, in particular with regard to maternal and infant mortality. It urges the State party to increase women's access to healthcare and family planning services. It also recommends that national reproductive health programmes be designed and implemented in order to prevent early pregnancy and induced abortions in rural and urban areas.

34. The Committee expresses concern at the increasing rate of HIV/AIDS and the absence of measures for the care of women and girls infected with HIV/AIDS.

35. The Committee urges the State party to take holistic measures to combat the HIV/AIDS pandemic and to take further practical preventive measures, including by providing access to condoms for women and men. It also urges the State party to ensure that women and girls infected with HIV/AIDS are not discriminated against and are given appropriate assistance. The Committee also emphasizes that the collection of reliable data on HIV/AIDS is critical to gaining an understanding of the pandemic.

36. Despite the State party's effort in the area of education, the Committee is concerned at the low rate of female literacy, the low enrolment of girls in school in rural and urban areas and the high dropout rate of girls due to pregnancies. These negative factors are reinforced by stereotyping in textbooks. It notes that education is a key to the advancement of women and that the low level of education of women and girls remains one of the most serious impediments to their full enjoyment of human rights.

37. The Committee urges the State party to strengthen its efforts to improve the literacy level of girls and women in rural and urban areas, to ensure equal access of girls and young women to all levels of education and to prevent girls dropping out of school. It encourages the State party to introduce further special measures in the area of education, including incentives for parents to send girls to school and to encourage the recruitment of more qualified women teachers.

38. The Committee expresses concern at the high rate of unemployment among women. It also expresses concern at disparities between women's

and men's wages, sexual harassment, and the lack of social security for women.

39. The Committee urges the State party to introduce temporary special measures in accordance with article 4, paragraph 1, of the Convention in creating employment opportunities for women. Efforts should be made to expand the community-based public workers programme into areas where the number of unemployed women is particularly high. The Committee calls on the State party to review its legislation and policy in the employment sector to facilitate full implementation of article 11 of the Convention.

40. The Committee expresses concern that marriage and family relations are governed by dual legal systems of statutory and customary law, and that many of their laws are not in harmony with the Convention. It also notes that customary law is mostly unwritten, often administered by male justices without a legal background, and that discrimination against women is not addressed in their decisions.

41. The Committee recommends that statutory law be reformed and customary law be revised and codified to conform with article 16 of the Convention. It also recommends the introduction of programmes on legal education, gender sensitization and human rights for judges.

42. The Committee is concerned that polygamy is widely accepted and not effectively combated by the State party.

43. The Committee recommends that the State party take comprehensive and effective measures, including the training of the judiciary and law enforcement officials and public awareness raising campaigns, in order to eliminate the practise of polygamy.

44. The Committee is concerned that aspects of the law on nationality as described in the report continue to discriminate against female spouses.

45. The Committee recommends that these laws be amended in conformity with article 9 of the Convention, and that court decisions recognizing women's equal rights be enforced.

46. While the Committee commends the State party's efforts to host refugees from neighbouring countries, it is concerned at the State party's capacity to protect and guarantee the rights of refugees.

47. The Committee recommends that the State party continue to give

assistance to refugee women and girls, and carry out rehabilitative efforts directed at them. The Committee also recommends that the State party seek further support from, and continue to work in close cooperation with, appropriate international agencies in the field of refugee protection, in particular, the Office of the United Nations High Commissioner for Refugees.

48. The Committee requests the State party to respond to the unanswered questions raised during constructive dialogue with the Committee and to the concerns expressed in the present concluding comments in its next periodic report submitted under article 18 of the Convention. It also urges the State party to improve the collection and analysis of statistical data, disaggregated by sex, and to submit such data to the Committee in its next report.

49. The Committee urges the State party to sign and ratify the Optional Protocol to the Convention, and to deposit as soon as possible its instrument of acceptance of the amendment to article 20, paragraph 1, of the Convention, concerning the meeting time of the Committee.

50. Taking into account the gender dimensions of declarations, programmes and platforms of action adopted by relevant United Nations conferences, summits and special sessions of review (such as the twenty-first special session of the General Assembly, on the implementation of the Programme of Action of the International Conference on Population and Development; the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance; the Second World Assembly on Ageing; and the twenty-seventh special session of the General Assembly, on the implementation of the outcome of the Children's Summit), the State party should include information on the implementation of those aspects of these documents relating to relevant articles of the Convention in the light of the subjects dealt with in those meetings.

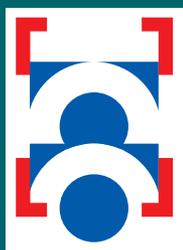
51. The Committee requests the wide dissemination in Zambia of the present concluding comments in order to make the people of Zambia, particularly members of non-governmental organizations, administrators and politicians, aware of the steps that have been taken to ensure the *de jure* and *de facto* equality of women and the further steps required in this regard. It requests the State party to continue to disseminate widely, in particular to women's and human rights organizations, the Convention and its Optional Protocol, the Committee's general recommendations, the Beijing Declaration and Platform for Action, the results of the twenty-third



special session of the General Assembly, entitled “Women 2000: Gender Equality, Development and Peace for the Twenty-first Century” and the Programme of Action adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

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