

Child Rights Violation and Mechanism for Protection of Children Rights in Southern Africa: A Perspective of Central, Eastern and Luapula Provinces of Zambia

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Abstract:- Children in any traditional society are regarded as property of their parents and therefore, are invested or treasured with the rights deemed for them to undertake their duties. Nonetheless, some quarters in Southern Africa and globally the parents' rights to the children are not inviolable and as such states are taking a right to protect children's interest. The article analysis the extent of child rights violation in terms of child abuse in Southern Africa in the perspective of three (3) provinces in Zambia and mechanisms put in place to ensure children rights protection. The conclusion is drawn and thereafter, recommendations. The article is built on the mixed research methodology study conducted in the six (6) districts from the three (3) Provinces in Zambia by comparison of per-urban and urban districts. In the study, semi-structured interview, observation and Focus Group Discussion was used to capture primary data whereas, secondary data was collected from official documents of enumeration sheet and other literatures. Quantitative data, which was collected through the enumeration data sheets, was analyzed using Excel to generate tables and other data presentation formats, whereas, Qualitative data was analyzed thematically.

Keywords:- Child rights, Violation, Protection, Southern Africa and Zambia.

I. INTRODUCTION

The Universal Declaration of Human rights adopted in 1948 by UN General Assembly Article 25 accords any child either born in or out of wedlock, a right for special care and assistance as well as enjoy social protection. Children despite the national status have the right to receive right education, access to adequate and health food and affordable health care (UDHR, 1948). In Southern Africa, children under 18 years make up half of the total population, and UNICEF in conjunction with the partners, private sector and communities in Eastern and Southern Africa were working hard to uplift the rights of children and attain the Sustainable Development Goals. In 2017 Mr Kate Gilmore the UN Deputy High Commissioner for Human Rights stressed during the 74th Session of the Committee on the Rights of the children in Geneva that children Worldwide face the violation of their

rights inter alia, poverty, violence and discrimination against them (VallAfrica,2017). The article anchors on a baseline study we conducted in line with "the Safeguarding Rights, Protecting Children" project in six (6) districts namely; Chisamba and Kabwe of Central Province, Chipata and Katete of Eastern, and Chembe and Mansa of Luapula Province of Republic of Zambia. The study concentrated on violence against children such as early child marriages, lack of justice for children, child trafficking, child sexual exploitation, child labour and other traditional harmful practices. On this score, several children remain vulnerable to multiple child protection violations in homes, schools and in communities.

II. BRIEF CASES OF CHILD RIGHTS VIOLATION IN SOUTHERN AFRICA

Even though, there are a number of international agreements and national laws in Southern Africa, violation of child rights especially girls was prevent worldwide and affects millions of girls who were being married of under 18 years of age. Child marriage in Angola like globally, prevents girls from acquiring an education, enjoying optimal health, ultimately choosing their own life partners bonding with others their own age, maturing, hence becomes human rights violation (Nour,2006) . However, Child marriage is driven by poverty and has many effects on girls' health: increased risk for sexually transmitted diseases, cervical cancer, malaria, death during childbirth. In Zimbabwe, the Section 19 of 2013 Republican Constitution which inherited the 1980 Constitution that only included Civil and Political rights I n governance, clearly provides the protection of the child. To the contrary, the Zimbabwean existing laws do not fully protect the children. The Marriage Act (Chapter 5:11) allow the girl child to marry at age of 16 and a boy at 18 under section 22 and the Customary Law Marriage Act (Chapter 5:07) allow marriage at any age (Govhati, 2017).

Rights Witch monitored that there was violation of child rights in South Africa as government had failed to deliver on the promise to guarantee inclusive education for children and disabilities to earn adequate skills for employment. 600 000 children with disabilities in South Africa remain out of school. Richardson (2017) state that

despite the 2015 Safe School Declaration signed by a number of countries meant to provide safety and continuation of education, the child rights to education in Namibia was being violated. Some schools and learning institutions were being used by government security forces and non state armed groups as military bases, shelters, weapons caches and outpost. The usages of these facilities at times disrupt pupils learning and pose sexual violation threat to girl child by very soldiers. The Namibian Constitution, Chapter 3 on Fundamental Human Rights and Freedom Article 15 (1) (2) prescribes the children right to be named and to protection from economic exploitation, not interfere with education. Meanwhile, Botswana was providing free health and basic education to all children and funding 24 hour helpline manned by professional social workers as well as monitoring human trafficking. There is also a principal piece of legislation for child protection which is Children Act and the Child Protection Protocol and Regulation (UN Human Rights Secretariat, 2019).

III. HUMAN RIGHTS INSTRUMENTS

A. *The International Human Rights Instruments*

➤ *United Nations Convention on the Rights of the Child (UNCRC)*

The programmes concerning the development of the children are enshrined UNCRC adopted on 20 November 1989, it principally focused on the best interests of the child, to ensure that a child is protected from all conditions that make them vulnerable to abuse or violation of their rights. In this light, Article 19 mandates all states, which are party to the Convention, to take appropriate legislative, administrative, social and educational measures that would guarantee child protection from all forms of maltreatment or exploitation, physical or mental violence, sexual abuse, injury, neglect or negligent treatment while in the care of parent(s) or legal guardian(s).

➤ *Conventions of the International Labour Organisation (ILO)*

To uphold fundamental human values for their importance to social and economic lives, in 1998, the ILO adopted the Declaration on Fundamental Principles and Rights at Work as the commitment by governments, employers' and workers' organizations. The Declaration commits member States to respect and promote principles and rights in four core categories. One of these categories, demands for the abolition and prohibition of child labour (Cf. https://www.upf.edu/gredtiss/_pdf/2013-LLRNConf_Smit.pdf 5). The Protection of children and young people in line with ILO Convention 138 deals with employment age, remuneration of children and young people and vocational training (Art.7).

➤ *The International Covenant on Civil and Political Rights (ICCPR)*

The ICCPR guarantees the protection of civil and political rights. The Covenant includes two principal anti-discriminatory rights: article 2 guarantees to all individuals, within a State party's territory and subject to its jurisdiction, that the rights enshrined in the ICCPR will be respected and safeguarded without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status; and article 3 guarantees the equal right of men and women to enjoy all the civil and political rights contained in the Covenant. The rights enshrined in the ICCPR include these: the right to life (article 6); freedom from torture (article 7); the right to liberty and security of person (article 9); the rights of detainees (article 10); the right to a fair trial (article 14); the right to privacy (article 17); freedom of religion (article 18); freedom of expression (article 19); the right to political participation (article 25); equality before the law (article 26); and the protection of minorities (article 27). Moreover, if any of the rights or freedoms recognized within the ICCPR are violated a person must have access to an effective remedy (article 2[3][a]).

Though the ICCPR has weaknesses, it can be relied upon in so far as it protects children's civil and political rights. For one thing, while guaranteeing the rights and freedoms, it also includes the possibility of State parties to restrict or derogate from them under particular circumstances. For another, it does not categorically prohibit child marriages, but demands that the rights of human beings, children inclusively, should be protected. It enjoins upon State parties, of which Zambia is one, to adopt legislative measures to ensure the promotion and protection of the rights that it contains.

B. *Regional Human Rights Instruments*

➤ *African Charter on Human and Peoples' Rights (ACHPR)*

The African Charter on Human and Peoples' Rights (also known as the Banjul Charter) is an international human rights instrument which is meant to promote and protect human rights and basic freedoms in the African continent. The Charter is a regional human rights instrument designed to reflect the history, values, traditions, and development of Africa. It combines African values with international norms by not only promoting internationally recognized individual rights, but also by proclaiming collective rights and individual duties. Article 18 (3) specifically provides for the "elimination of every discrimination against women and also ensure the protection of the rights of women and the child as stipulated in international declarations and conventions". On this score, it can be depended on in the protection of children's rights from all form of abuse and violation. Zambia is party to this treaty.

➤ *The African Charter on the Rights and Welfare of the Child (ACRWC)*

The African Charter on the Rights and Welfare of the Child (ACRWC) was adopted in July 1990 by the Organisation of African Unity (OAU), the forerunner of the African Union (AU). It mainly adapted the rights contained in the UNCRC in order to address the particular challenges facing the African child, and also to encourage the UNCRC's implementation by member States. As such, its provisions are similar to those of the UNCRC.

The Charter obliges member States of Organization of African Unity, which now the African Union, to recognize the rights, freedoms and duties contained in the Charter as well as to undertake the necessary measures, "in accordance with their Constitutional processes and with the provisions of the present Charter, to adopt such legislative or other measures as may be necessary to give effect to the provisions of this Charter" (Art.1.1). Like the UNCRC, the African Charter also provides a mechanism for monitoring government's implementation of its provisions. This is in the form of an independent institution known as the African Committee on the Rights and Welfare of the Child (Cf. <http://www.open.edu/openlearnworks>) Zambia, as a member of the African Union, has assumed duties stipulated in this Charter.

C. *Southern Africa Charter on Fundamental Social Rights*

In 2003, SADC adopted a Charter on Fundamental Social Rights which amongst others seeks to provide a framework for regional labour standards. On this basis, it obliges member states to create an enabling environment, consistent with ILO core conventions, to prioritize ILO core conventions and take the necessary action to ratify and implement these standards. The Charter further requires member States to create an enabling environment to ensure equal treatment for men and woman, and for the protection of children and young people. The SADC Tribunal was established in 1992 by Article 9 of the SADC Treaty as one of the institutions of SADC. Under international law the Tribunal is considered as an international court similar to the European Court of Justice and is a permanent court. According to article 16 of SADC Treaty, the main objective of the SADC Tribunal is to ensure that member States are adhering to the provisions of the Treaty and other subsidiary instruments. The Tribunal ensures that Member States do not violate the SADC law. However, it is difficult to enforce judgments made by an international tribunal of this nature in that it involves sovereign nations, which enjoy the privileges of the non-interference international principle. Besides, there is no independent supervisory mechanism to call members to account for any breach of the Charter (Cf. https://www.upf.edu/gredtiss/_pdf/2013-LLRNConf_Smit.pdf).

D. *Domestic Human Rights Legal Framework*

➤ *Zambian Constitutional Rights*

It must be understood that, in its current form, the Zambian Constitution guarantees civil and political rights for all people, including children. However, it falls short of recognizing the particular vulnerability of children (Cf. *Media Brief on Ending Child Marriages in Zambia*, 2014, p. 17). The government has already enacted a law banning early child marriages. A girl child can only be married at the age of 21 and above. It is therefore a matter of enforcement by the police and execution by the judiciary. Government and other stakeholders should support traditional authorities to monitor child marriages in chiefdoms. The Zambian Constitution provides for children of Zambia and their rights through these articles:

- Article 5: Birth right and citizenship of a child
- Article 12: Right to Life
- Article 19: Freedom of Conscience
- Article 24: Protection of Young Persons from Exploitation

IV. FINDINGS AND DISCUSSION

A. *Central Province*

➤ *Chisamba District*

Geographically Chisamba district lies between Lusaka, Chibombo and Kabwe to the north and north-east and Chongwe districts to the East. It is largely a commercial agricultural activity area. Chisamba has an administrative centre at Chisamba town with a District Commissioner's office, a Council Secretary, a police station, with 3 health facilities, and 2 agricultural extension staff, social welfare and community development and educational facilities located at Chisamba centre, Chikonkomene, Chikumbi and Mpima areas. However, staffing levels for these government entities are below average across all social sectors. The survey particularly gathered data from Chikonkomene and Muswishi areas of Chisamba. The data showed that child abuse was more prevalent in the area which stood at 39 counseled cases. As for specific forms of child abuse, it was deduced from the FDGs and KIIs that one of the most common kind of child abuse and child rights violation in Chisamba is child labour and yet contrastingly, statistics showed that child defilement was the most common in Chisamba. Most child labour cases were in the agricultural sector on large commercial farms. Other forms of child labour were reported in charcoal burning and vending of both agricultural and non-agricultural products especially along the Great North Road and the main road to Chikonkomene settlement area. Socio-economic factors attributed to child labour can be said to be poverty, low incomes, availability of commercial farms in need of cheap labour, ignorance, illiteracy and cultural practices, among others. FDGs also

revealed that early marriages and physical child abuse, child

neglect and dissenting were also prevalent in the area.

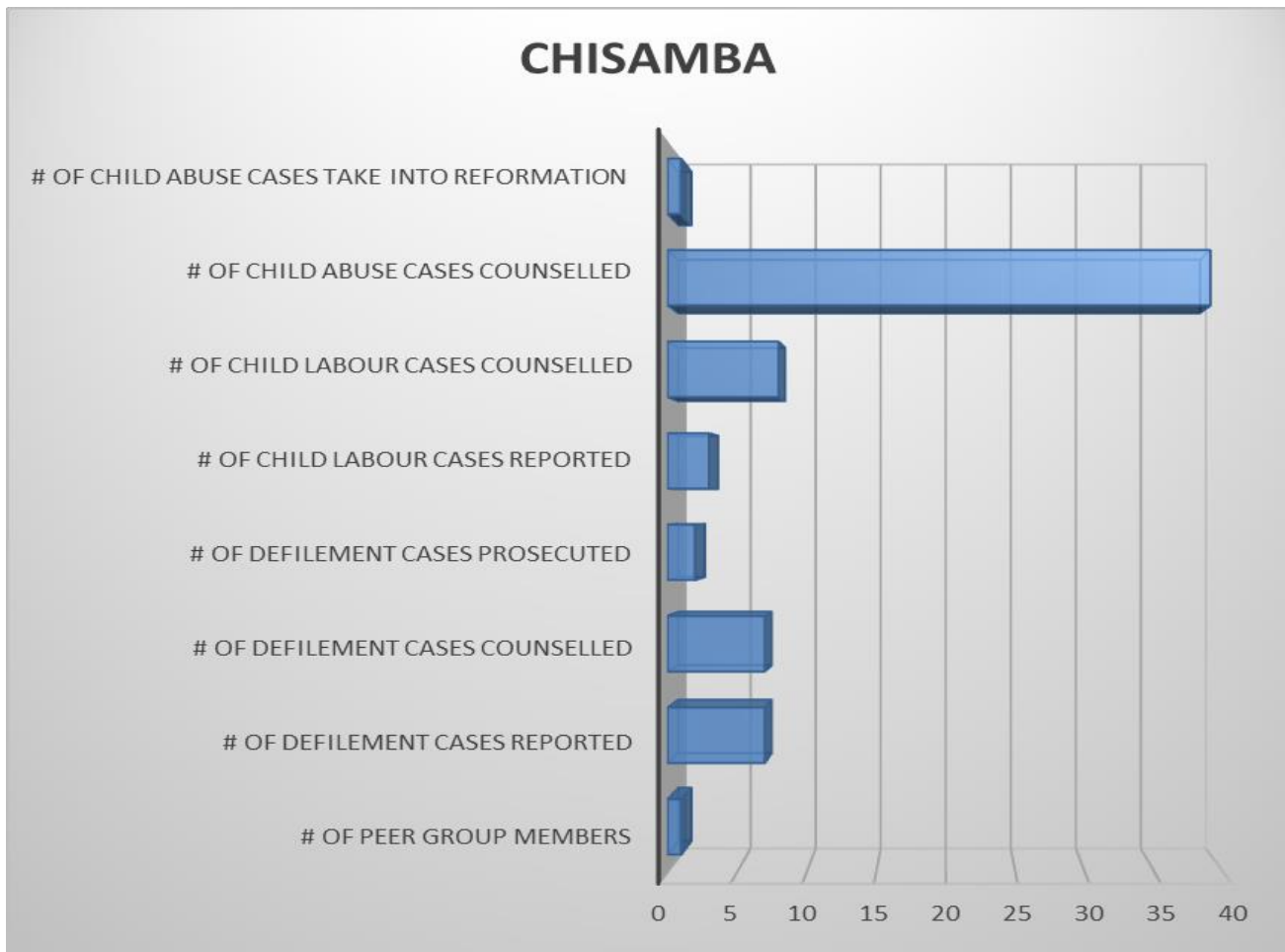


Fig.1:- Level of Child Abuse and Child Rights Violations

As shown in Fig.1 above, many forms violence against children are reported to service providers and care givers. It is interesting to note that there was an equal number of defilement cases reported and counselled in Chisamba. This is indicative of the existence of child care and child protection service providers in the area, but the number of those prosecuted was lower for various factors which will be discussed later. The age cohort for child labour was said to be between 12 and 16 years in Chisamba.

➤ *Kabwe District*

Kabwe district lies to the north of Lusaka and to the south of Chisamba and Chibombo districts, and to the South-East of Mpongwe and to the north-east of Kapiri-Mposhi districts. It is also a municipality for the Central province. The economic activity of Kabwe is commercial agriculture, manufacturing and commercial trading with some lead and zinc mining activities. It is more urbanized than Chisamba. Administratively, Kabwe has all the state apparatus in place with all government departments and care and service providers within reach. It is an old town that once served as the capital of colonial Zambia, as opposed to Chisamba, which has just been accorded district status. The survey in Kabwe was conducted in Makululu and Mpima Dairy Resettlement Scheme. In the course of the study, the data collected in manifested violations of child's rights as depicted in the graphs below:

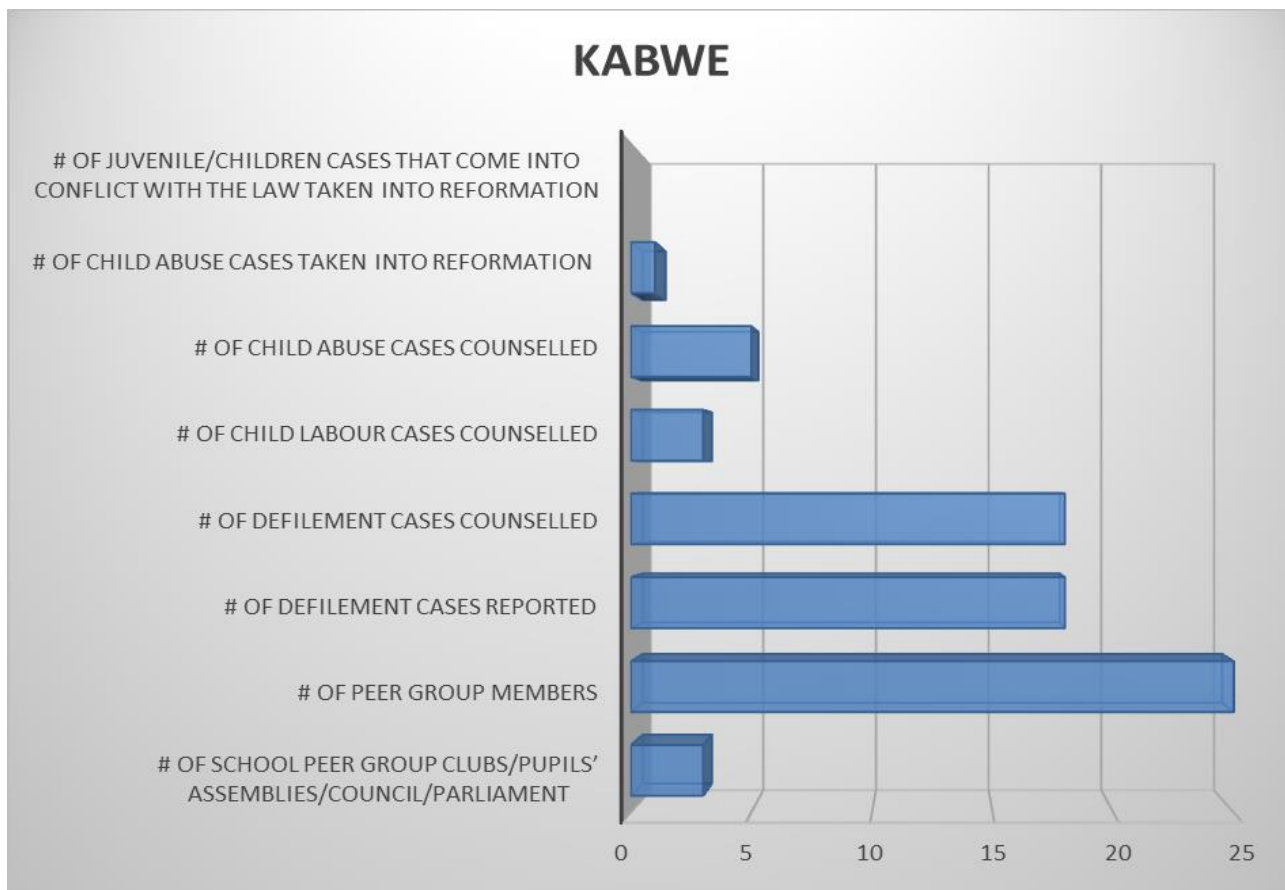


Fig. 2:- Level of Child Abuse and Child Rights Violations

As shown in Fig. 2 above, it can be deduced that child defilement is the most common form of child abuse and child rights violations. Statistics show that about 18 out of 20 respondents interviewed affirmed the scourge. It translates into about 90% prevalence rate as compared to other forms of child abuses and violations such as child labour which stood at about 3 out of 20, representing about 15% prevalence rate as at November, 2015. The same number of defilement cases were also reported and counseled. Other forms of child abuse such as early marriages, physical abuse, and child neglect fell below 5, representing about 24.8% prevalence rate. However, FDGs and KIIs in Makululu area of Kabwe showed that child labour was the most common form of child abuse and child rights violations. This apparent contradiction will be addressed later in the discussion. In Kabwe, child labour manifests itself in form of informal trading and vending of various products especially in Makululu, which is a high density shanty township, and it is said to be the second largest in Africa after Soweto in South Africa. In any case, Kabwe had more service and care facilities than Chisamba. It was also found that the number of school peer group clubs/pupils assemblies or parliament stood at 15% as compared to less than 5% for Chisamba.

FDGs in Kabwe revealed that child sexual abuse cases affected more girls than boys of the same age cohort, thus exposing the gender disparities in the district while child labour affected both female and male children without gender bias. Respondents attributed the causes of such child rights violations to high levels of poverty in the peri-urban areas, illiteracy, ignorance, low incomes and traditional cultural practices. Substance abuse was also identified as a driver of girl child sexual molestation and abuse. According to KIIs conducted in Makombe area, child abuse and other child rights violations affect all categories of children under 18 years.

B. Eastern Province

➤ Chipata District

Chipata district lies to the east of Lusaka and shares both local and international boundaries. It lies to the east and north-east of Katete and Chadiza districts, respectively, to the south of Mambwe district, to the south-west of Lundazi district and to the west of Vubwi district. It has an international boundary with Malawi to the east. It is a provincial municipality with fully functional administrative structures. Travel to Chipata is by road and air, but has an operational rail route for cargo to Nacala, in Mozambique via Malawi. The major economic activity is agriculture, tourism

and light manufacturing and service industry. In Chipata, the communities where the survey was administered were Kapara and Chiparamba. The graphs below presents the

aggregated data that shows the levels and kinds of child rights violation that is prevalent in the district.

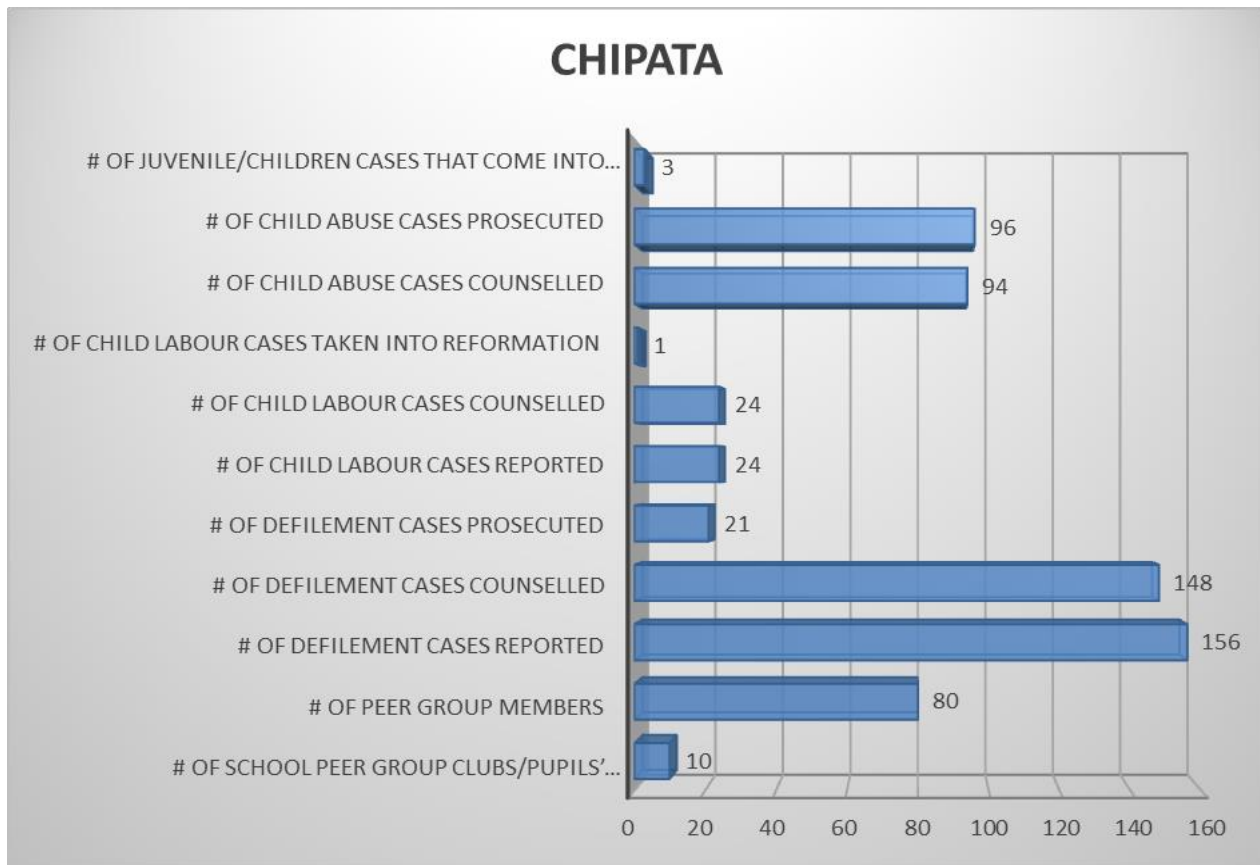


Fig. 3:- Level of Child Abuse and Child Rights Violations

Although FGDs and KIIs for Chiparamba and Kapara areas only reported 6 cases of child abuse and 2 prosecutions, the above statistics show that child defilement is rampant in eastern province as are other forms of child abuse such as early marriages, teenage pregnancies and child labour. The latter manifests itself in form of cheap labour on tobacco farms in Chiparamba and Kapara which are tobacco farming schemes in Chipata. Cattle herding by young children and early marriages were also reported to be common in Chipata. It can then be discerned that the police victim support unit, the department of social welfare, community development, the health institutions, the education department and the judiciary and other non-state actors are proactive in the district, given the number of prosecuted cases and the number of school peer clubs or assemblies that stood at 10 in the district. During FGDs and KIIs with members of the

communities in the two respective areas, it was observed that the causes of these child rights violations were poverty, low incomes, youth unemployment, drug abuse and alcoholism, and highly entrenched patriarchal traditional values of the Ngoni culture.

➤ *Katete District*

Katete is the second largest town after Chipata which lies to the east of Sinda and to the south-west of Chadiza and to the west of Chipata. It lies to the south of Mambwe district. Katete is largely an agricultural rural district that is quickly urbanizing due to cross border trade with Mozambique and is the transit route to Beira and Nacala ports. It has all government administrative functions and departments as a local authority. In Katete, the study was conducted in Undi and Kagoro areas.

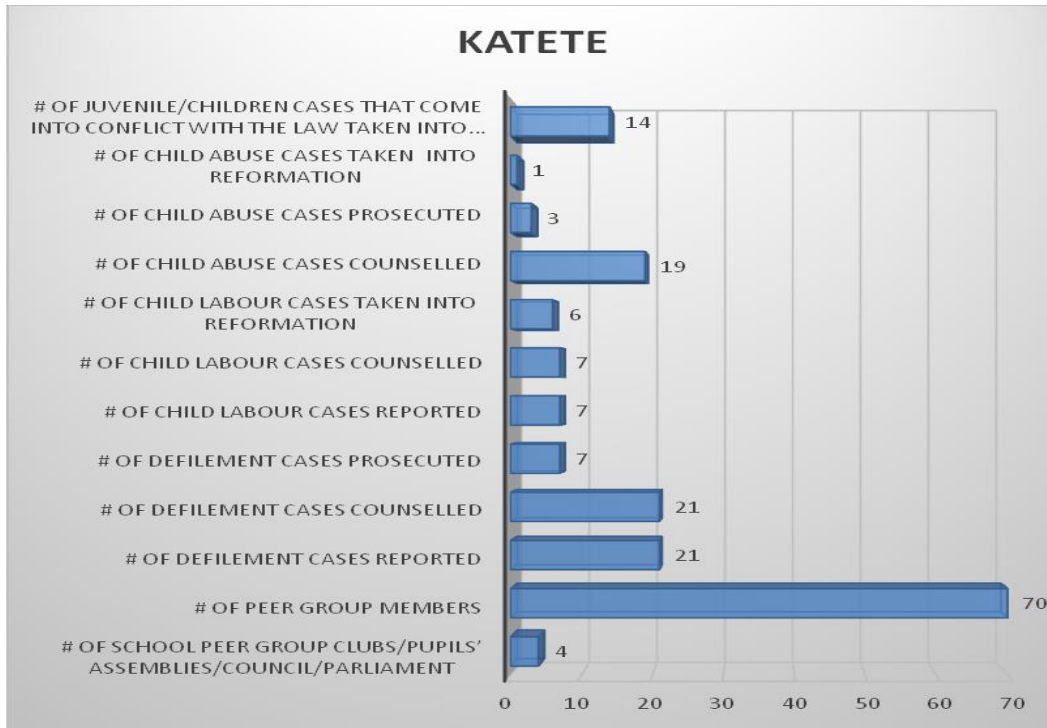


Fig. 4:- Level of child abuse and child right violation

C. Luapula Province

➤ Mansa District

Mansa is the municipality district of Luapula province shares an international boundary with Congo DR to the east and Mwense in the north and Samfya to the south west. The

main economic activity of the district is subsistence agriculture, fish trading and some mining in manganese. In Mansa, the survey was conducted in 2 communities of Mibenge and Lukola areas. As regards, the child rights situation, the following graphs demonstrate the situation:

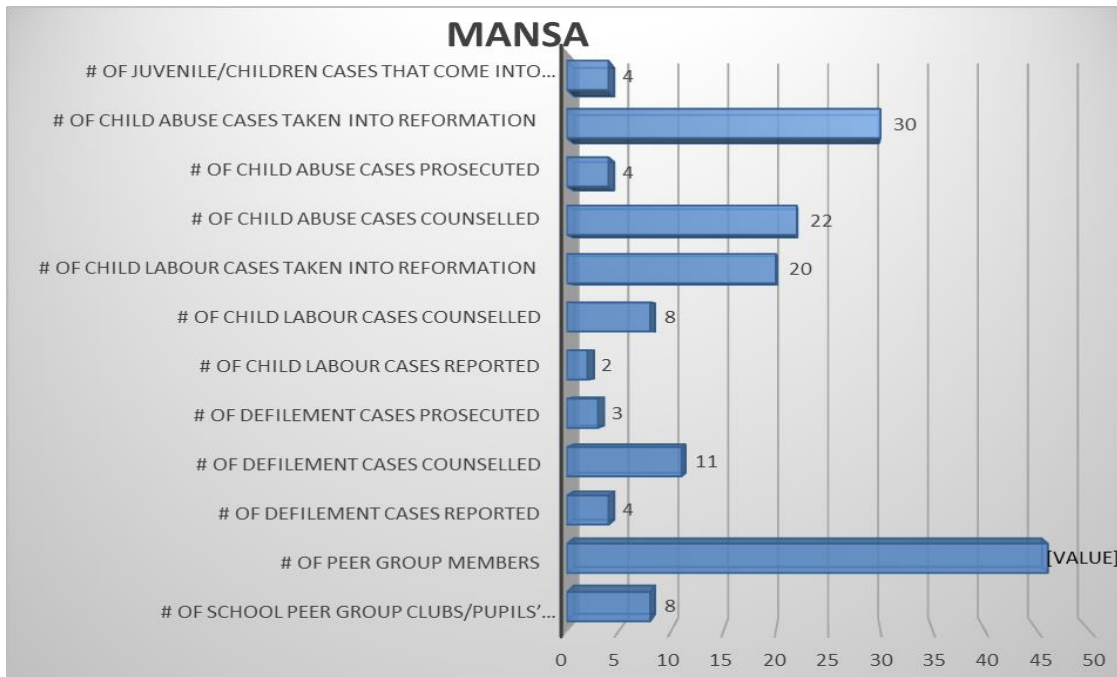


Fig. 5:- Level of child abuse and child rights violation

From the statistics shown in Fig. 5 above, Mansa recorded only 4 defilement cases that were reported out of which 3 were prosecuted and yet 11 cases were said to have been counseled, as at November 2015. Compared to Chipata, Mansa showed a very low number of child labour cases. Only 2 cases were reported in this category while 8 child labour cases were counseled, but 20 child labour cases taken into reformation. 4 child abuse cases were prosecuted while 22 were counseled and 30 child abuse cases were taken into reformation according to statistics in Fig. 5. However, Mansa recorded a high number of peer group members with 8 school peer group clubs and assemblies recorded. Only 4 juvenile cases were reported to be in conflict with the law. Most commonly reported forms of child abuse for Mansa were child defilement, early marriages and child labour as identified by FGDs and KIIs held in Mibenge and Ntoposhi

areas of Mansa district. Causes of these child rights violation included poverty, low incomes, negative cultural beliefs and values, child delinquency, alcohol abuse and child neglect and HIV and AIDS. Few prosecuted cases imply that state and non-state agents are present within Mansa. All these were identified during meetings with the communities and interviews with individual respondents.

➤ *Chembe District*

Chembe district is one of the newly created districts in Luapula province. It lies to the south east of Samfya districts and to the south west of Mansa. It shares a border with Congo DRC and Mwense district. The main economic activity in the area is fishing and subsistence agriculture. In Chembe, the survey was carried out in Ntoposhi and Lwansa communities.

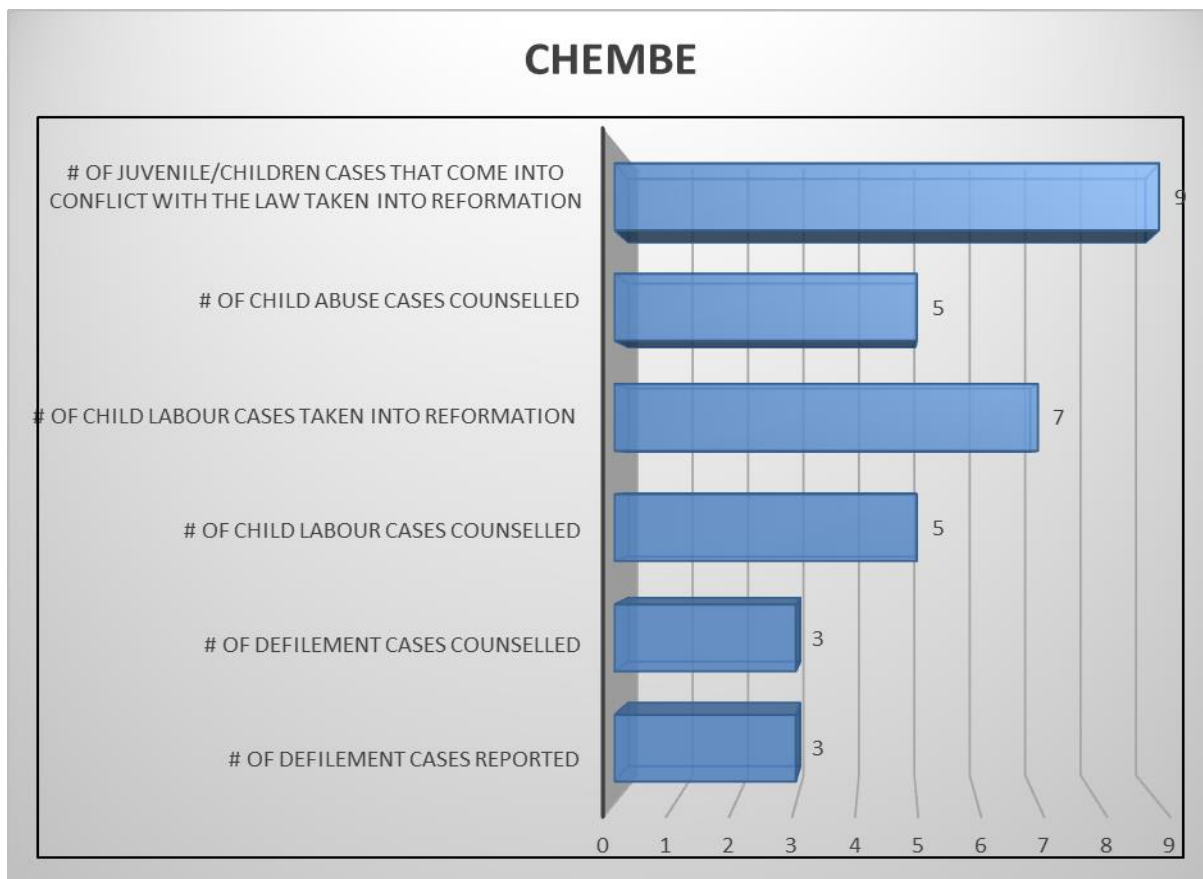


Fig. 6:- Level of Child Abuse and Child Rights Violations

As can be seen from the graphs above, Chembe recorded a high number of juveniles/children that come into conflict with the law that stood at 9 as compared to Mansa and the 6 districts under review. It also reported only 3 cases of defilement and all 3 were counseled by child service centres. Chembe also recorded only 5 cases of child labour that were counseled while 7 child labour cases were taken into reformation. There were no child abuse cases reported nor prosecuted in the district though 5 cases were counseled.

The most common form of abuse can be said to be child labour while the lowest is defilement as shown in Fig.5. However, other forms of abuse were also said to be common by FGDs and KIIs held in Chembe that included early marriages, sexual abuse, and physical violence and gender based violence and child trafficking in the area. Causes of these forms of abuse are poverty, low incomes, traditional beliefs and ignorance and illiteracy, alcohol and drug abuse.

V. VARIATIONS AND APPARENT CONTRADICTIONS IN THE COLLECTED DATA

As the data was being interpreted, it emerged that the variations and apparent contradictions in findings from towns and PUs was chiefly dependent on the availability and accessibility to Child Rights Protection mechanisms. Child protection services are relatively available in areas closer to town centres at district level. The levels of knowledge by the communities are higher in administrative centres than areas away from these centres. The concentration of staff such as teachers and police victim support units and social welfare officers is more pronounced at district levels than away from the districts. One stop centres providing counselling and care for abused children was said to be evident at district level. Accessibility of these services was reportedly low as one moved away from town centres although the presence of paralegals was noticeable at both community and town centres of the both Chipata and Katete districts. The most notable access was reported at health facilities for defilement and at schools for early marriage cases.

Generally, the above factors surrounding availability and accessibility to child rights protection system are illustrated well in the case of Chipata where the environment is more conducive for child rights protection. As demonstrated from the graphs, Chipata presents a unique scenario by recording the highest number of defilement cases reported (156) and counseled (148) among all the 6 districts covered in the survey. Chipata also recorded the highest number of defilement cases that were prosecuted (21) out of 156 cases reported. Fig. 3 also shows that the district recorded 96 prosecutions for other child abuse related cases while 94 cases were counseled by various child care and service providers in the province. For child labour, all 24 cases that were reported were also counseled which can be said to be 100% in terms of accessibility to child care services. From the statistics, it can be deduced that Chipata has the highest child defilement prevalence rates and other child abuse related cases than all the districts covered in the study. It also recorded the highest prosecutions for reported cases in all categories of child abuse as depicted in Fig. 3.

It was noted that in central province the most common form of child abuse was child labour in that though it is not strictly a VAC issue, it exposed children to violence in different work environments. Children, for instance, were subjected to carry heavy loads that were practically beyond their capacity. This was particularly true for Kabwe and Chisamba districts. Factors that can be attributed to this prevalence are the presence of large commercial farms that are in need of labour, single-headed households, low incomes, child neglect and poverty, among others. The same factors as noted above apply for Chembe where child labour was also notably high. On whole, the captured data indicated that the prevalence of child rights abuse was higher in provincial headquarters than in smaller districts. This is

because reporting mechanisms were more functional in provincial centers whereas in rural parts people tended not to report cases.

Data also manifested a disparity between the number of child cases reported and those that were counseled as in the case of Mansa. This difference may be attributed to the fact some cases were handled by non-stators actors and were never captured by the official channels such VSU, Social Welfare and Labour Offices. In the course of the study, it also became evident that simply focusing on children as the right holders was not sufficient. Some respondents were of the view that to effectively safeguard rights of children, their own families needed to be empowered especially with the prevailing levels of poverty. Grandparents, for instance, who keep abandoned or orphaned children needed to be identified in communities and supported. On a positive note, it was learnt that in Chipata District, Jesus Cares had been implementing a project on Combating child Labour and had done some work around promoting rights of children through training of children in life skills. YWCA was widely known as a referral institution particularly in Chipata were survivors of violence had been sorting support such as counselling services and some legal advice. In Katete, World Vision was cited as having done sensitizations on gender based violence and promoting child rights while the Victim Support Unit of Zambia Police had also been conducting outreach activities in the communities though it is constrained by limited resources such as transport.

VI. MAIN CAUSES OF CHILD RIGHTS VIOLATIONS

A. Child Sexual Abuse/Defilement

This form of violence against children is mainly perpetrated by men on vulnerable girl children than by women on vulnerable boy children and traditional leaders in some cases and traditional healers in case of HIV/AIDS. Main causes are largely attributed to cultural beliefs and myths as is the case for sexual cleansing, spouse inheritance widowers and widows, and the assumption that sleeping with a minor could cure HIV and AIDS, early child marriage practices under customary law and poverty. The key actors in reversing such forms of child rights violations are the civil society organisations such as Women for Change, FAWEZA, YWCA, and international non-governmental organisations such as Plan International, UNICEF, Children in Need, Child Fund and World Vision and government's Ministries of Gender, Education, Community Development and Social Welfare, Home Affairs and the Office of the First Lady in recent years. The police's VSU and the judiciary have also played a significant role as actors in an effort to reduce child sexual abuse and defilement. Traditional leaders have also joined other stakeholders in denouncing this form of child rights violation, but to a lesser extent.

B. Child Labour

This form of violence against children is perpetrated by family members, communities and the private sector despite that it is not included in violence against children. It is also the most common form of child abuse indirectly. The main causes are largely associated to poverty, low incomes, ignorance and illiteracy and sheer exploitation of children by the private sector organisations. Child labour manifests itself in in the informal sector whereby children are hired on large commercial farms for planting, weeding and harvesting of agricultural produce in case of Chisamba and on tobacco fields in case of Chipata for very low wages. Some of the key actors in reducing this form of violation are government's Ministries of Labour and Social Protection, Home Affairs, Police's VSU, Plan International, CHIN, ILO, Unicef and some corporate institutions to a small extent.

C. Early Child Marriages

This form of violence against children is perpetrated mainly by family members whose desire is to make economic gain out of dowry and other related endowments arising therefrom. Parents and guardians are the key drivers of this form of violence against children and are supported by traditional community settings and practices. It is very prevalent in eastern province where earlier studies have shown that the prevalence rate is about 60% compared to other regions in Zambia. The main causes for this form of violence against children are poverty, coupled with traditional cultural practices of chinamwali, nyau and Ngoni male chauvinism. In Ngoni culture, dowry is in form of cattle which is a symbol of wealth hence girl children are traditionally perceived as investment products that translate into wealth creation for families and households. Civil society organisations and government as well as the church have acted consistently and concertedly to reduce this form of violence against children, but more efforts need to be done by all stakeholders especially at grassroots level where these incidents occur.

As noted in the programme analysis, there are both immediate causes and underlying causes of violence against children. These causes mainly appear in form of poverty, traditions, norms, discrimination, values and power structures, socio-cultural, economic and political context whereby children are not included in decision-making structures and processes until the age of 18 when they can exercise their right to universal suffrage. In addition, the absence of a comprehensive National Child Protection System makes it difficult for the development of a holistic and sustainable intervention child protection strategy by stakeholders. Inter-linkages between various causes are also affirmed. Impunity, which makes duty bearers to feel not obliged to respect and fulfil the rights of children, is one of the drivers of the rights violations against children. Similarly, the clash of values and practices between those in customary setting and those in the international codes is regarded as a source of challenge as the former tends to be

very permissive of some of the practices that negatively affect children. On the whole, however, all these causes are apparently compounded by very limited spaces for the children to claim their rights and influence decision making on child rights and child protection. From the literature available and field data gathered, it can be concluded that children have no platform to engage in dialogue on violence against them with relevant structures and institutions.

VII. MECHANISM FOR PROTECTION OF CHILD RIGHTS

➤ *State's Commitments to Protection of Child Rights*

Internationally, the state is party to the African Charter on the Rights and Welfare of the child (ACRWC), the United Nations Convention on the Rights of the Child (UNCRC) and the related protocols, the Palermo protocol on Human Trafficking, the United Nations Conventions on the Elimination of all forms of Discrimination against Women, the ILO Conventions, and the United Nations Convention on the Rights of People with Disabilities.

Nonetheless, enforcement of provisions in these international treaties is problematic in that there are weak structures, institutions and an enabling legal environment to allow for the protection and support of children's welfare especially in the communities that are most rural and far removed from the more urbanised cities. In certain cases, Zambia has not satisfactorily lived up to the requirement to submit periodic reports, and this has created inconsistencies in the monitoring and reporting on its performance regarding the fulfillment of children's rights. It is strongly recommended that the government begins submitting reports to relevant regional and international bodies in order to make child protection systems measurable in Zambia. In the absence of these mechanisms, the state does not feel very obliged to account on its role of respecting, protecting, and fulfilling the children's rights. The absence of this form of accountability leaves civil society organisations with no frame of reference for advocacy activities to support the welfare of children as they can barely participate in the monitoring and reporting of children's rights.

Locally, Zambia has a functional constitution and a strong penal law for the protection of children. However, the implementation and enforcement of such laws is very poor and in some cases very compromised. At times, statutory laws conflict with customary practices.

➤ *Role of Other Actors in the Protection of Child Rights*

On this front, the actors under consideration include INGOs, NGOs, CBOs, FBOs, children's organisations, academic institutions, religious movements, UN agencies and the Media. The analysis demonstrates that, at Sub Saharan regional level, there are national governments and advocates which are engaged with a coalition of organizations in dealing with the strengthening child protection systems. At

national level, the analysis affirms the partnerships that Plan Zambia currently has in pursuing the new agenda for child protection as well as its other related activities such as advising government on matters of child protection. The new agenda, in question, incorporates the systems approach that focuses on a larger systemic framework. This includes legal and policy contexts, institutional capacity, community contexts, planning, budgeting and monitoring and evaluation subsystems. This approach differs from the traditional child protection mechanism that created a fragmented and unsustainable child protection response due to its concentration on single thematic issues. It is therefore, recommended that the project consider broadening its focus to include all forms of violence against children rather than on a select category of children or issues in order to achieve meaningful results and impact in the long term.

➤ *The National Child Policy*

The welfare and development of children is assured by the Constitution through the National Child Policy, other related policies and legislation. The objective of the Child Policy is to promote equal opportunities and enjoyment of by both girls and boys of rights, resources and rewards. Females have lagged behind in terms of education and participation in various developmental processes and intervention due to gender differences. It is thus vital that the Government keeps on promoting gender programmes concerning the welfare and development of children.

➤ *The Legal Framework and Enforcement of Child Rights Protection*

Fundamentally, it became evident from the study that the legal framework is weak and fragmented in as far as child rights protection is concerned in Zambia. The law and policies concerning the protection of child rights are, in this sense, still problematic. As can be noted, for instance, the NSPP's definition of a child in terms of age differs from that adopted in other pieces of international, regional and even some nation legal frameworks that have been reviewed in this report. The Penal Code under Chapter 87 of the Laws of Zambia states that a 15-year old may be liable for crime of defilement. This means that a child may be subjected to criminal prosecution before the general age of majority which is 18 years. Besides, the Marriage Act stipulates that the legal age for marriage is at 21 years of age, but permits marriage below this age as long as there is consent of an adult. For another, customary law rules that a child can be married when he/she reaches puberty. On this score, customary law contradicts the national law. Furthermore, both laws conflict with the UNCRC. On the whole, this dissonance in the laws and policies makes it difficult to fully safeguard these rights. For one thing, specific pieces of legislation have different definitions of a child. Incidentally, one respondent also expressed the view that the 'defilement age' should be changed from 15 years to 16 years so as to protect girls.

There is thus need for a holistic legal reform that fully protects children of all categories from abuse. Children born in prison from convicted pregnant women are forgotten and none of the stakeholders in child protection makes mention of them and yet they exist and are the most marginalized by the penal, customary and social systems as they are completely excluded from all interventions from programme formulation and design to planning, monitoring and evaluation processes. They suffer the worst forms of abuse and neglect by both the state and non-state actors. They lose their rights to education, health, food, clothing and shelter and water and sanitation as enshrined in the constitution by virtue of their mothers' incarceration.

➤ *Co-ordination among Agents of Child Rights Protection*

The Child protection mechanisms are weak at district level. They largely depend on the District Development Coordination Committees (DDCC) which meet irregularly. However, even at this level there is less interest as Heads of Departments who provide oversight are only a sub-committee of the DDCC who also either lack transport, fuel and often require an allowance to travel out to the communities for them act on reported cases of child abuse. The survey revealed marked weaknesses in terms of coordination among government office bearers and NGOs/CBOs. Most CBOs and paralegals are not members of the DDCC. The fact that government agencies lead the coordination compounds the problem in that NGOs find it difficult to speak out on issues. Besides, these agencies fail in consistently coordinating meetings due to other commitments that they have. In several instances, the cases of child rights violation are not properly followed up even if they are reported. Traditional Chiefs' Representatives do not report such matters during DDCC Meetings as they live in town centres, and there are no feedback mechanisms. Elected ward councillors are not members of the DDCC and yet they represent communities in their wards. Poor linkage between community Child protection mechanisms and formal systems such as Police and other institutions such as health facilities and school authorities are prevalent in the communities visited. There is indeed need to strengthen sub-district structures at ward and zonal levels for effective capture and monitoring of incidences of child abuses. As recommended, one way of doing this can be by supporting advocacy and coordination among civil society partners.

There are also harmful cultural and traditional practices that perpetrates children dropping out of school. This was very evident at Undi school were most of the children drop out of school in preference for being initiated in ceremonies such as Nyau for boys and Chinamwali for girls. Children with disability are even in a worse situation. Often times, they are locked up in houses for fear of exposing them to embarrassment and stigma against them. Besides, public infrastructures, such as schools, do not have facilities that are user-friendly to them; they share the same facilities with the able-bodied children, and this inhibits their participation.

The dumb children are also rarely understood as many care givers have no training in sign language. This hampers the participation of such children. Exclusion and gender Inequality were also manifested in that girls' education was cited as not being a priority as girls were mainly perceived as a source of wealth. This was evident at the low progression of girls at grade 8 and 9 level in the schools visited. Orphaned children also had limited opportunities to be in school as most of them were hired as cattle headers or as laborers in the Tobacco farms which also posed a healthy risk on them especially for boys while girls were also engaged as maids especially in the urban areas.

➤ *Good Governance, Transparency and Accountability*

For child protection to be achieved, there need for a cadre of an informed well sensitized broad spectrum of key players such as government agents and community and traditional leaders at community level on child rights violations and clear reporting channels established than is the case at present. Information, Education, Communication (IEC) could play a significant role in behavioural change by all stakeholders in child protection especially at enforcement level. The local court justice delivery system also needs to be overhauled to include issues of child protection issues in their domain. In many instances, as it was learnt during the survey, communities refrain from reporting cases of child defilement. Partly, this is because these cases have not been prosecuted or have been corruptly handled by the police. Perpetrators of abuse have been let free by the police and courts in suspicious manner, and communities fear reprisal when such abusive people are quickly reintegrated back into the community.

As for children that come into conflict with the law, their matters are handled differently depending on the gravity of the issue. Normally, they are just beaten up or scolded. For defilement cases, they are reported to the police. However, this also depends on the relationship between the victim and the offender. Besides, some people prefer that such cases are dealt with outside the courts of law. In Chipata and Katete, for instance, it was discovered that most of the cases of child abuse are concealed among care givers and mostly settled between the parties. It is also generally compounded by inadequate access to justice services due to limited Police posts in the areas. Besides, it was noted that there are no Police Cells for juveniles, and this absence creates a gap between the law and the facilities for children who come into conflict with it. Children in such situations are prone to mistreatment by elderly offenders.

➤ *Decentralization*

Government has made significant strides in decentralizing most of its functions from the centre to the local authorities through the Revised Decentralization Policy (2013). However, the non-implementation of the decentralization policy remains a major bottleneck to child protection related issues as the local authorities implementing

and spending agencies need more money to finance oversight programmes for monitoring cases of child rights violations. Most Councils and Municipalities depend on government grants and allocations from the treasury for their functions. The delay to implement the policy can only have a negative impact on the realization of the child protection objectives. For instance, defilement of imbecile cases are still referred to Chainama Hospital in Lusaka. It would be preferable that all provincial centers are allowed to examine these cases. This would cut down on the costs of the centralized referral system that is currently in place. Incidentally, logistics to support this system are hard to come by, and many case fall out due to lack of transport and items to safely carry specimen to Lusaka.

VIII. CONCLUSION

Generally, poverty and socio-economic deprivation exposes many children to violence by adults. Violence against children manifests itself in the form of sexual abuse in the case of defilement and early child marriages, exploitation, in the case of child labour. As such, the programme analysis draws the conclusion that many of Zambia's children need protection from risk and harm that threatens their rights and well-being. For this aspiration to come true, however, communities, including those most at risk, need to build resilience and closely work together to reduce the incidence of violence against children. Besides, social workers, health workers, teachers, and police officers need information and training about how children should be handled. This frontline staffs needs more sensitization and awareness on child rights, as they form part of the child protection system. Financial and material resources available to these officers also need to be adjusted upwards in order to effectively respond to violence against children and adhere to child protection tenets.

RECOMMENDATIONS

- Advocacy for legal reforms to harmonize the various pieces of legislation such as the Gender Based Violence (GBV) Act, Child Neglect Act, the Marriage Act, and the Labour Act.
- Advocate for stiffening of laws concerning perpetrators of violence against children by, for instance, raising the age of defilement from 15 to 16 years.
- Advocate for the harmonization of customary and statutory law on the issue of child marriages so as to safeguard children from sexual violence.
- Engage government to speed up the implementation of the decentralization policy so that local people can meaningfully participate in the overall governance processes of the country at all different including in child rights protection.
- Advocate for a single piece of legislation that can comprehensively addresses civil society so CSOs can

- fulfil their rights of association and assembly that are enshrined in the Constitution.
- Advocate for more enhanced sharing of information and lessons among various actors, such as UNICEF, that are involved in the protection of children and NCPS map
 - Interventions in child protection should look at boys with their own rights and not only as helpers to stop violence against girls.
 - Coordination of DDCC meetings should be led by NGOs, and not government agencies who are often preoccupied with other affairs. Coordination of these meetings requires support from stakeholders such as Plan.
 - Sensitize communities (adult members/guardians/parents as opposed to children alone) on child rights and on the need to report cases promptly; this exercise of sensitization should be continuous.
 - Child rights projects should aim at not only empowering the right holders (children) with information on child rights, their violations and child protection systems, but also the families in which they live for sustainable child rights protection.
 - Form and train child rights clubs in schools to enhance participation of Children and undertake a more indebt exclusion analyses at one point or another and then re-strategize.
 - Enlighten traditional leaders on importance of child rights protection and the ills of some cultural practices and Involve traditional leaders in child rights protection activities
 - Involve civic leaders, such as Councilors, in child rights activities
 - Further research into the subject may be needed in future to enhance present results in order to contribute to the development of a holistic Regional child protection system with mechanisms that would ensure child protection at all levels of governance from community, district to national levels

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