

# *“They are Destroying Our Futures”*

## Sexual Violence Against Girls in Zambia’s Schools

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Avon Global Center for Women and Justice at Cornell Law School  
Cornell Law School International Human Rights Clinic  
Women and Law in Southern Africa-Zambia

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**OCTOBER 2012**



Cornell University  
Law School

Avon Global Center for Women and Justice



Women & Law in  
Southern Africa -  
Zambia

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Girls at Zambian basic school (photo: USAID)



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### **Avon Global Center for Women and Justice at Cornell Law School**

The Avon Global Center for Women and Justice at Cornell Law School works with judges, legal professionals, governmental and non-governmental organizations to improve access to justice in an effort to eliminate violence against women and girls. For more information, please visit: [www.womenandjustice.org](http://www.womenandjustice.org).

### **International Human Rights Clinic at Cornell Law School**

The Cornell International Human Rights Clinic works on a variety of human rights projects, ranging from fact-finding and reporting to domestic and international litigation to human rights education. Through the Clinic, Cornell Law students have helped strengthen the rule of law and legal processes around the world. More information about the Clinic can be found at [www.lawschool.cornell.edu/academics/clinicalprogram/int-human-rights/index.cfm](http://www.lawschool.cornell.edu/academics/clinicalprogram/int-human-rights/index.cfm).

### **Women and Law in Southern Africa Research and Educational Trust – Zambia**

Women and Law in Southern Africa-Zambia (WLSA) works towards improving the socio-economic, political, and legal advancement of women through action research. WLSA Zambia makes this contribution through collaborative, strategic, and action research in the socio-legal field while advocating and lobbying for legal reforms and policy changes on laws and practices which discriminate and disadvantage women and children thereby contributing to their sustained well-being in families and communities. The users of research results are policy and law makers, legal practitioners, law enforcement agencies, and legal education organizations such as universities. Collectively these represent a target group of WLSA interventions as users. However, women and children are the ultimate beneficiaries of WLSA interventions.

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## Executive Summary

This report examines the problem of sexual violence against girls in Zambian schools. In Zambia, many girls are raped, sexually abused, harassed, and assaulted by teachers and male classmates. They are also subjected to sexual harassment and attack while travelling to and from school. Such abuse is a devastating and often overlooked manifestation of the gender-based violence that occurs in numerous settings throughout Zambia.

Girls who experience incidents of sexual abuse in school rarely report them, fearing stigma, blame, retaliation, or unresponsiveness on the part of school authorities. These fears are well justified; school and civil officials often fail to respond effectively to sexual harassment and violence in schools, and girls who do report are frequently unable to obtain redress. Yet these patterns of conduct cause serious physical and emotional injuries to young girls, discourage them from continuing their education, and reinforce discriminatory patterns in the family and society.

This report explores these issues from an international human rights perspective, drawing upon extensive desk research and interviews with 105 schoolgirls and many other stakeholders in Zambia's Lusaka Province. The report presents new evidence about the nature, scope, and consequences of the problem of sexual violence in Zambian schools. It also illustrates the ways in which school-based sexual abuse implicates Zambia's international and regional law obligations, and offers suggestions for preventing and responding to this serious human rights problem.

Sexual harassment and violence affect adolescent girls at all levels of schooling and ages and in all types of school settings, whether urban or rural. Fifty-seven students (54% of students interviewed) said that they had personally experienced some form of sexual violence or harassment by a teacher, student, or men they encountered while travelling to and from school. In total, 88 students (84% of students interviewed) reported that they had personally experienced such abuse or knew of classmates who had experienced it.

Of the girls interviewed, more than half said that they knew of teachers at their current or former school who had sex or entered into relationships with students. Some students described teachers who "proposed love" to them or their classmates, told sexually-charged stories in class, or made inappropriate remarks about girls' bodies. Teachers also used the promise of money for food, school fees, and other necessities or small luxuries to lure students into sexual relationships. In other cases, teachers gave the girls they were dating preferential treatment, helping them to pass even when they did not deserve good marks or refraining from punishing them when their classmates were punished. Some teachers retaliated against girls who refused their

advances or broke off a relationship, for example, by sending students out of class or punishing them when they did not do anything wrong.

Many Zambian girls are also sexually harassed, assaulted, and abused by their male classmates. About two-thirds of the girls we interviewed reported knowing about specific instances of sexual abuse or harassment of girls at their schools. Interviewees described how boys came up to girls at school and proposed sex to them, touched their breasts or buttocks, or made sexual comments. Some boys threatened girls if they did not submit to their sexual advances or, in a few cases, used physical violence against them.

Moreover, girls in Zambia are vulnerable to sexual harassment while travelling to and from school or staying at boarding facilities. Teachers at one school described incidents in which men from the surrounding community harassed girls who were boarding at the school. Numbers of girls reported being subjected to harassment or assault as they walked or rode the minibus long distances to and from school.

Sexual abuse by teachers, fellow students, or community members has serious negative consequences for girls' education and health. As a result of sexual violence, girls may experience sexually transmitted diseases, early pregnancy, injury or death from unsafe abortions, and depression and anxiety. They are also more likely to have difficulty concentrating on their studies. Some students have transferred to another school to escape harassment. Still others have dropped out of school because of pregnancy, and in spite of a government policy that requires schools to readmit students once they have given birth, many girls who leave school never return.

Girls who are subjected to sexual abuse at school face multiple barriers to obtaining redress. Most schools do not have clear policies or procedures for responding to reports of sexual abuse or educating girls about how to protect themselves from such abuse. Many school officials fail to recognize or respond effectively to harassment and violence that occurs at their schools. Reluctant to fire teachers, some officials react to reports of abuse by cautioning the perpetrator or transferring him to another school. School officials rarely bring sexual abuse to the attention of the police, and challenges ranging from the lack of resources available to police investigators to problems of evidence to the absence of child-friendly court procedures make it unlikely that the few cases of school-based rape or defilement that do enter the criminal justice system will progress very far.

In recent years, sexual violence against girls in schools has received increased attention from the Zambian government, which has taken important steps to address the problem. For example, the Ministry of Education has banned teachers from conducting private tutoring sessions in their homes and has partnered with non-governmental organizations that have instituted promising programs aimed at empowering schoolgirls to protect themselves against sexual violence. In 2011, the

Zambian Parliament enacted two important pieces of legislation, the Anti-Gender-Based Violence Act and the Education Act, which provide heightened protection and support for girls who experience school-based sexual abuse. In addition, the Ministry of Education is presently in the process of drafting a National Child Protection Policy for Schools, which, among other things, will establish guidelines for preventing and responding to sexual violence in schools.

The Zambian government should build upon these promising initiatives and continue to work, in collaboration with its civil society partners, to eliminate sexual violence from Zambia's schools. The following key recommendations and those offered in more detail at the end of this report seek to inform and support these efforts:

### **To the Zambian Government in general**

- Educate teachers, school officials, police officers, magistrates, and other relevant actors about their obligations under the Anti-Gender-Based Violence Act, including their duties to inform violence survivors about their rights and assist them in accessing legal, psychosocial, and other support
- Expand the resources available to the Victim Support Unit (VSU) of the Zambian Police to support their investigation of sexual violence cases, public education campaigns, and specialized training of VSU officers
- Establish new and strengthen existing mechanisms for collecting qualitative and quantitative information about the prevalence of sexual violence and harassment in schools throughout Zambia

### **To the Ministry of Education**

- Strengthen, adopt, and give effect to the draft National Child Protection Policy for Schools, making available the necessary institutional framework to ensure effective implementation
- Develop and enforce national codes of conduct for teachers, school employees, and students that prohibit all forms of sexual violence and harassment at school, establish that this prohibition extends to relationships between teachers and students regardless of the student's age and whether she consented, and require teachers to comply with the code of conduct as a condition of employment
- Design and implement guidelines for schools on responding effectively and expeditiously to reports of sexual violence or harassment and for disciplining teachers or students found to have engaged in such conduct
- Enforce punishments for sexual violence and harassment that are commensurate with the offense, including the mandatory dismissal of teachers who are found to have sexually abused students



- Strengthen the monitoring role of the office of the District Education Board Secretary (DEBS) and enforce reporting of sexual violence cases by school officials to DEBS and to the police or other civil authorities in appropriate cases
- Implement comprehensive education and training programs on issues relating to sexual violence and harassment for teachers, school administrators, other school staff, and students, as well as students' families
- Work with civil society organizations to expand and strengthen student organizations like "Safe Spaces" and "Girls Network" clubs that offer girls a safe environment in which to discuss sexual harassment and violence at school and empower them to report such abuse where it occurs

### **To School Administrators and Teachers**

- Respond effectively and expeditiously to reports of sexual violence or harassment, including by instituting anonymous mechanisms for reporting cases of sexual violence and harassment and measures to protect students from retaliation
- Discipline teachers and students found to have engaged in sexual violence or harassment and ensure that the punishment is commensurate with the offense
- Report sexual violence cases to DEBS and to the police or other civil authorities in appropriate cases
- Strengthen guidance and counseling resources available to students at school and ensure that students are aware of and can comfortably access such support

### **To the Zambian Parliament**

Consider implementing the following legislative reforms:

- Requiring school employees and other relevant actors to report sexual violence and other forms of child abuse to the police
- Amending the definition of a "child" under the Penal Code and other legislation so that they are consistent with international law and afford protection to all children under the age of 18

### **To the Zambian Judiciary**

- Expand training for all judges and magistrates handling child and adolescent sexual violence cases
- Establish courtrooms that have "child friendly" features aimed at the protection of child witnesses, such as provisions for children to testify behind a screen or by video



## Methodology

This study is based on desk research and interviews with schoolgirls and other stakeholders conducted in November 2011 and May 2012 in Lusaka Province, Zambia.

In November 2011, after obtaining permission to conduct the research from the Ministry of Education, researchers from Cornell Law School, accompanied by members of the Women and Law in Southern Africa-Zambia (WLSA) staff, conducted interviews with 11 teachers and school administrators at four schools, including an urban high school and basic schools in urban, peri-urban, and rural locations. They also interviewed more than 15 other individuals including representatives from the District Education Board Secretary Office, the judiciary, the Victim Support Unit of the Zambian police, and civil society organizations.

In May 2012, two female Cornell researchers, each accompanied by a female WLSA staff member, conducted interviews with 105 girl students in grades 7-12 at seven schools located, variously, in rural, peri-urban, and urban areas. In conducting the interviews with girls, the researchers met first with the headmaster or deputy head of the school they were visiting and obtained his or her permission to conduct interviews with students. The headmaster or deputy head referred the researchers to a female staff member at the school. She selected several classrooms, and the researchers then asked for volunteers among the girls in those classes and chose among them randomly. Between 10 and 23 girls were interviewed at each school. Their ages ranged from 12 to 22 years, and most were in grades 9, 10, or 11, with a few in grades 8 or 12 and one in grade 7.

**GIRLS INTERVIEWED BY AGE**

Age	Number of girls	Number in basic schools	Number in high schools
12	1	1	
13	9	9	
14	19	16	3
15	21	16	5
16	25	11	14
17	17	6	11
18	7	2	5
19	2	1	1
20	3	2	1
22	1		1
<b>Total</b>	<b>105</b>	<b>64</b>	<b>41</b>

Interviews were carried out in private rooms and lasted about 30 minutes. They were conducted primarily in English, although, in several cases where a girl did not speak English fluently, the WLSA staff member provided translation into and from Bemba or Nyanja. At the end of each interview with a schoolgirl, the researchers provided her with information about people or groups she could contact, including the WLSA staff member present, if she wanted to report any cases of sexual violence or harassment, needed counseling or any other type of assistance, or experienced any problems as a result of having participated in our study. No students contacted WLSA with any concerns.

Prior to each interview, the researchers informed the participant about the purpose of the interview, its voluntary nature, and how the information collected would be used, and obtained informed oral consent. The researchers used a common script for each category of interviewee but varied the questions asked in particular interviews. They did not identify in their research notes the names of the schools or of the girls and teachers interviewed, or the names of any other interviewees who requested anonymity. These names have been omitted from the report in order to protect the interviewees' identities. As an additional protection, the report does not cite the specific date on which each girl was interviewed or the specific location of the interview.

The researchers also interviewed approximately ten additional stakeholders in May 2012, including a UNICEF officer and representatives from each of the categories of individuals interviewed in November 2011.

To supplement the findings of this report, in July 2012, a WLSA researcher conducted interviews with 48 schoolgirls at four schools (three basic schools and one high school) in urban and rural locations in and around the town of Monze in the Southern Province, using the methodology described above. This report includes some of the preliminary findings from that research trip.



# Chapter 1: Background

## A. Context

Zambia is a landlocked southern African nation that borders Angola, the Democratic Republic of the Congo, Tanzania, Malawi, Mozambique, Zimbabwe, Botswana, and Namibia. In 2012, the population, which includes more than 70 ethnic groups, was estimated at 13,817,479.<sup>1</sup> Only 36% of the population is concentrated in urban areas.<sup>2</sup> The majority of the population (85%) works in agriculture, while 9% works in services and 6% works in mining and manufacturing.<sup>3</sup>

Since independence in 1964, Zambia has been a democracy. Its official language is English, although 73 local languages and dialects exist in the country. It is divided administratively into nine provinces, of which only two, Lusaka and Copperbelt Province, are predominantly urban. The legal system follows the common law tradition, and customary laws are also applied.

Zambia's mixed economy includes a modern urban sector and rural agricultural sector. Copper mining dominates the economic sector, although the Zambian government has made efforts towards diversification.<sup>4</sup> In recent years, Zambia has experienced strong economic growth, including an average GDP growth of 5.6% in 2001-2010 and 7.6% in 2010.<sup>5</sup> However, poverty continues to affect the lives of many Zambians, with 64% of people living below the international poverty line.<sup>6</sup> Poverty levels are highest in rural areas, affecting 80% of the rural population.<sup>7</sup>

## B. Sexual Violence against Women and Girls in Zambia

The prevalence of physical and sexual violence against women and girls in Zambia is extremely high. A 2007 government survey reported that 47% of Zambian women had been the victim of physical violence at least once since the age of 15 and that at least one in ten women experienced sexual violence.<sup>8</sup> In 2011, the Zambian Victim Support Unit (VSU), a unit of the Zambian police responsible for responding to sexual offenses and other crimes against women and children, recorded 11,908 reports of gender-based violence, up from 8,261 in 2009.<sup>9</sup> The actual occurrence of gender violence is almost certainly much higher due to the likelihood of underreporting. There has been a sharp increase in cases of defilement (statutory rape) reported to the University Teaching Hospital since 2008, from 1,237 cases in 2008 to 2,430 cases in 2010.<sup>10</sup> Defilement cases reported to the VSU have also increased, from 1,676 in 2009 to 1,939 in 2011.<sup>11</sup> This may indicate an increase in incidents of defilement, an increase in reporting due to heightened awareness of the legal remedies available for sexual violence, or both.

Girls encounter sexual violence in all areas of life in Zambia. Family members, often uncles or cousins, but sometimes fathers as well, are the perpetrators of such violence

in the home.<sup>12</sup> Although we did not ask our interviewees specific questions about sexual violence in the family or community, many girls volunteered that they had experienced such violence. Two girls had been raped, one by a stranger and one by a boy in her community; one girl had watched her uncle attempt to rape a cousin; and 21 girls reported unwanted touching or grabbing in public. As discussed at length in this report, girls also face the threat of sexual violence from teachers and fellow students at school. Moreover, the media is filled with reports of rapes and killings of women, conveying a message to girls that they are constantly at risk of gender-based violence.

The widespread occurrence of sexual violence against women reflects power imbalances between the genders and often serves “to perpetuate male power and control.”<sup>13</sup> According to one recent study, social constructions of masculinity in Zambia emphasize aggression and sexual conquest.<sup>14</sup> A man is typically viewed as the head of his household and may subject his wife or other women to violence in asserting his position, especially when he believes that his position has been undermined.<sup>15</sup> Furthermore, social norms influence how a victim and community respond to sexual violence; for example, some community members may blame women and girls for the sexual violence they experience, arguing that they were acting or dressing in a provocative way.<sup>16</sup> As we discuss below, sexual violence has serious and far-reaching consequences for survivors’ health and education, in addition to its societal costs such as the costs of medical care and reduced economic production.<sup>17</sup>

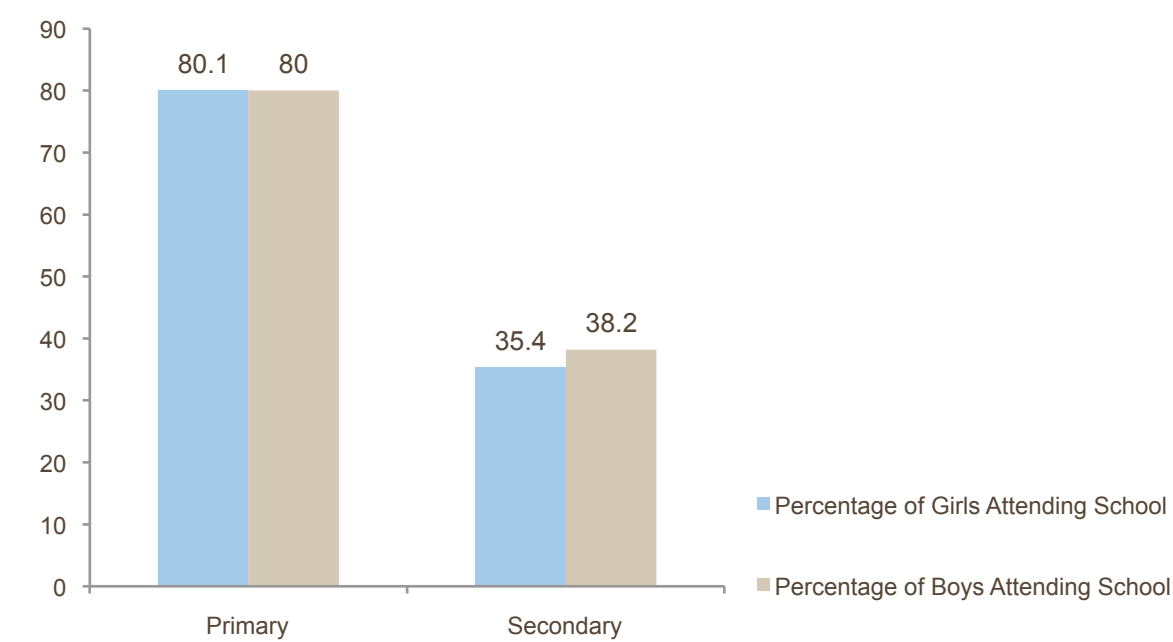
## C. Girls’ Education in Zambia

The Zambian public education system includes nine grades of “basic” schooling, of which the first seven grades constitute primary education, followed by high school, which includes grades 10–12, and then tertiary education, which includes universities or technical colleges.<sup>18</sup> This system is in transition, evolving from a system of primary schools (grades 1–7) and secondary schools (grades 8–12).<sup>19</sup> Because the transition is still in progress, the lower secondary grades 8–9 may be taught in either a basic or a high school.<sup>20</sup> Students must pass a competitive examination in grades 7, 9, and 12 in order to graduate and move on to the next level. In addition to public government schools, Zambia has a system of community schools, which are run and partly supported by local communities, as well as private and aided schools (non-public schools supported in part by the government).<sup>21</sup>

Girls and boys have about equal levels of attendance in the primary grades 1–7, but at the secondary level, school participation falls off sharply and the gender differential increases. In 2007, 80.1% of girls and 80% of boys were attending primary school while only 38.2% of boys and 35.4% of girls were in secondary school.<sup>22</sup> Zambia ranks below average in the secondary school representation of women (women constitute 45% of the secondary school student body) among the 14 member states in the Southern African Development Community.<sup>23</sup> Nonetheless, the government has undertaken many positive

measures to promote the enrollment and retention of girl students, including providing bursaries for girls and instituting a Re-entry Policy that requires schools to re-admit girls who have given birth. These measures have resulted in significant advances for girls' education.<sup>24</sup>

**GENDER DIFFERENTIALS IN SCHOOL ATTENDANCE IN ZAMBIA**



Source: Zambian Ministry of Health, Zambian Health and Demographic Survey 18-20, § 2.3.2 (2007).

## PERCENTAGE OF GIRLS IN SECONDARY SCHOOL IN SADC COUNTRIES

(arranged from highest to lowest proportion of girls in secondary school)

	Girls (%)	Boys (%)
Lesotho	56	44
South Africa	55	48
Namibia	54	46
Botswana	52	48
Mauritius	52	48
Seychelles	51	49
Swaziland	50	50
Zimbabwe	48	52
Madagascar	48	52
Zambia	45	55
Angola	44	56
Malawi	44	56
Mozambique	44	56
Tanzania	44	56
DRC	36	64

Source: Perpetual Sichikwenkwe, Gender Links, SADC Gender Protocol Barometer Baseline Study: Zambia 36 (2009) *available at* <http://www.genderlinks.org.za/article/sadc-gender-protocol-barometer-baseline-study-zambia-2009-10-16>.

In Zambia primary education (grades 1-7) is free, but a student and her family must pay school fees for high school education.<sup>25</sup> The 2011 Education Act abolished fees for basic school students in grades 8 and 9,<sup>26</sup> but this provision did not appear to have been given effect in the basic schools we visited. Moreover, in all grades, students and their families must cover a range of additional costs for uniforms, shoes, books, and transportation, for example.<sup>27</sup> Families may have difficulty covering those costs for both boys and girls. Eight of the girls interviewed had dropped out of school for a substantial period of time, and 11 had missed days or weeks of school because they could not afford school fees, bus fare, uniforms, or school shoes. In addition, dropout rates among girls are often attributed to early marriages, pregnancy, heavy domestic tasks, and experiences or fear of sexual abuse.<sup>28</sup> In a 2010 study by the Forum for African Women Educationalists of Zambia (FAWEZA), 42.5% of surveyed students, teachers, and administrative employees pointed to pregnancy as the primary reason for girls dropping out of school, while 42.5% cited financial hardship, and 15% cited early marriage.<sup>29</sup>

Girls who do remain in school often encounter discrimination of various forms. Some teachers tell girls in class that they are not as intelligent as boys, particularly in traditionally male subjects such as math and science.<sup>30</sup> As one interviewee reported, “Sometimes teachers say, ‘Girls don’t study. This school would be better if it were just boys. Girls are ruining the reputation.’”<sup>31</sup> These types of discriminatory attitudes affected girls’ self-esteem. As one girl put it, “It really deprives us down and doesn’t encourage us to do better.”<sup>32</sup> In addition, girl students at a boarding school said that they had an early curfew and little space to study as compared with boy students.<sup>33</sup> Meanwhile, several day students talked of spending hours each day on household chores or missing school to look after their siblings when their parents were absent or had fallen ill, while their brothers and male classmates were free to focus on their studies. These discriminatory practices and attitudes make it much more difficult for girls than for boys to succeed academically. They also contribute to an atmosphere that is conducive to the sort of sexual harassment and violence examined below.



## Chapter 2:

# Zambia's Legal Obligations

Zambia has an obligation under international, regional, and domestic law to protect girls from sexual violence in schools and to provide them with a meaningful remedy in cases where such violence occurs.

### A. International Law

Zambia has ratified, without reservation, four international human rights treaties that obligate it to prevent and respond to sexual violence in schools: the International Convention on Economic, Social, and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child (CRC), and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

Under the ICCPR, Zambia has a duty to protect girls, without discrimination on the basis of sex, from cruel and inhuman treatment and from violations of their rights to life, liberty, and security of person.<sup>34</sup> This includes the duty to protect girls from sexual violence.<sup>35</sup> Zambia must also ensure that survivors of sexual violence at school have an effective remedy for abuse they experience, regardless of whether it is perpetrated by a teacher or other state actor or a private actor such as another student.<sup>36</sup>

As a State Party to the CRC, Zambia is obligated to protect children from violence, including sexual violence.<sup>37</sup> This duty compels Zambia to “take all appropriate legislative, administrative, social and educational measures to protect [children] from [any] form[] of physical or mental violence . . . while in the care of parents, legal guardians, or any other person who has the care of the child.”<sup>38</sup> This language requires protection while in the care of “education, school and early childhood personnel,”<sup>39</sup> making the state responsible for the care of children at school.<sup>40</sup> It is an affirmative duty of care, extending to the creation of social programs intended to provide support and treatment for child victims, as well as to prevent child abuse.<sup>41</sup> Social programs must also implement reporting, referral, and investigation policies, involving the judiciary where appropriate.<sup>42</sup>

Zambia also has a duty under the CEDAW to “pursue . . . without delay a policy of eliminating discrimination against women.”<sup>43</sup> The U.N. Committee on the Elimination of Discrimination Against Women has explained that “gender-based violence is a form of discrimination that seriously inhibits women’s ability to enjoy basic freedoms on a basis of equality with men.”<sup>44</sup> Sexual violence, like all gender-based violence, violates fundamental human rights such as the rights to life; health; liberty; security of person; not to be subjected to torture or cruel, inhuman, or degrading treatment or punishment; and equal protection under the law.<sup>45</sup> Sexual harassment, such as sexual touching and

advances or sexually colored comments, is broadly considered a form of gender violence and discrimination and is likewise prohibited.<sup>46</sup> Zambia must “refrain from engaging in any act or practice of discrimination against women,” including sexual violence, and must compel public institutions to comply.<sup>47</sup> It must also act with “due diligence” to prevent, respond to, protect against, and provide redress for sexual violence in schools.<sup>48</sup>

The ICESCR guarantees the equal rights of girls and boys to an education and to the highest attainable standard of physical and mental health.<sup>49</sup> States must provide free and compulsory education at the primary level and make secondary and higher education equally available to all persons.<sup>50</sup> Furthermore, education is a fundamental right necessary to “participate effectively in a free society.”<sup>51</sup> Therefore, Zambia has a responsibility under international law to protect girls from sexual violence and harassment that violates their right to education and interferes with their ability to enjoy the right to health on a basis of equality with boys.

## B. Regional Law

Zambia has also voluntarily assumed a number of regional and sub-regional human rights obligations. Zambia is a party to the African Charter on Human and Peoples’ Rights (African Charter), the African Charter on the Rights and Welfare of the Child (ACRWC), the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Protocol on the Rights of Women), the Protocol on the Prevention and Suppression of Sexual Violence Against Women and Children (Great Lakes Protocol), and the Southern African Development Community Protocol on Gender and Development (SADC Gender Protocol). In these treaties, sexual violence refers to all harmful practices or behavior “which negatively affect the fundamental rights of women and children, such as their right to life, health, dignity, education and physical integrity.”<sup>52</sup> Sexual violence also includes coercion, acts (or threats of acts) that inflict physical, mental, or sexual harm, and any other deprivations of liberty noted by the CEDAW Committee’s General Recommendation 19.<sup>53</sup>

Under the Great Lakes Protocol, States “shall punish any person who, with intent, knowledge, or negligence, . . . violates the sexual autonomy and bodily integrity of any woman or child by committing, aiding, or abetting the commission of any of the acts of sexual violence” previously discussed.<sup>54</sup> Furthermore, Zambia has assumed responsibility for ensuring that the perpetrators of sexual violence crimes compensate their victims.<sup>55</sup> Procedurally, Zambia is required to streamline the complaint process for sexual violence victims and establish legal and medical practices for assisting victims.<sup>56</sup>

The Protocol on the Rights of Women requires Zambia to implement measures that protect a “woman’s right to respect for her dignity and . . . from all forms of violence,” especially sexual violence.”<sup>57</sup> States must make an effort to both prevent and punish

sexual violence, including educating citizens about traditional and cultural beliefs that enable sexual violence against women.<sup>58</sup> Furthermore, Zambia must ensure that judicial, administrative, or legislative actors provide adequate remedies to victims.<sup>59</sup>

Zambia is obligated under the African Charter to protect children's rights under international declarations and conventions.<sup>60</sup> The ACRWC provides that Zambia must pursue legislative, administrative, social, and educational measures to prevent children from being tortured, treated inhumanely, or abused.<sup>61</sup> Additionally, "every child has the right to enjoy the best attainable state of physical, mental, and spiritual health,"<sup>62</sup> a right that is clearly impaired by sexual violence in schools.

A child's right to an education is also protected by these treaties.<sup>63</sup> Zambia must pay special attention to the needs of girl children to ensure that they have the same opportunities to obtain an education as boys.<sup>64</sup> As an example, female children who become pregnant while in school must have the "opportunity to continue with their education, on the basis of their individual ability."<sup>65</sup> In addition, Zambia must enact laws that provide girls with "equal access to and retention in primary, secondary, tertiary, vocational and non-formal education" and adopt gender-sensitive educational policies addressing, among other things, gender-based violence.<sup>66</sup>

As part of its obligation to guarantee the right of girls to education without discrimination, Zambia is obligated under the Protocol on the Rights of Women to protect female students from every form of sexual abuse, including sexual harassment in schools. This includes providing sanctions against any perpetrator, providing girls who experience such abuse with access to counseling and rehabilitation services, and teaching gender sensitization in schools.<sup>67</sup> Zambia must take "specific positive action" to promote the enrollment and retention of girls in schools, and organize other educational opportunities for women who do not complete their schooling.<sup>68</sup> The SADC Gender Protocol also requires state parties to provide remedies for any person whose rights under the treaty have been violated.<sup>69</sup>

## KEY INTERNATIONAL HUMAN RIGHTS IMPLICATED BY SEXUAL VIOLENCE AGAINST GIRLS IN SCHOOLS

Rights	Treaties that Guarantee Those Rights
Right to life	ICCPR; CRC; African Charter; ACRWC; Protocol on the Rights of Women
Right to liberty and security of person	ICCPR; CRC; African Charter; Protocol on the Rights of Women
Right to bodily integrity	African Charter; Protocol on the Rights of Women; Great Lakes Protocol
Right not to be subject to torture, or to cruel, inhuman, and degrading treatment	ICCPR; CAT; CRC; African Charter; ACRWC; Protocol on the Rights of Women
Right not to be discriminated against	ICCPR; ICESCR; CEDAW; CRC; African Charter; ACRWC; Protocol on the Rights of Women
Right to be protected from violence, including sexual violence	CRC; Protocol on the Rights of Women; Great Lakes Protocol
Right to health	CEDAW; ICESCR; CRC; African Charter; ACRWC; Protocol on the Rights of Women
Right to education	CEDAW; ICESCR; CRC; African Charter; ACRWC; Protocol on the Rights of Women
Right to remedy for violation of human rights	CRC; CAT; ICCPR, Protocol on the Rights of Women, SADC Gender Protocol

### C. Zambian Law

In line with its international and regional human rights obligations, Zambia's Constitution and national legislation obligate the government to protect girls from sexual harassment and violence in schools and provide redress where they occur.

#### The Zambian Constitution

The Zambian Constitution includes a number of rights that impose upon the government a duty to eliminate school-based sexual abuse. Articles 11 through 24, known as the fundamental rights provisions, include the rights to life, liberty, security of person; protection of the law; protection from torture, or inhuman or degrading treatment; and protection of young people from exploitation.<sup>70</sup> The key constitutional provision for children's rights is Article 24, which provides that "[a]ll young persons shall be protected against physical or mental ill-treatment [and] all forms of neglect, cruelty or exploitation."<sup>71</sup> Social and economic rights, such as the rights to health and education, are not included in the fundamental rights provisions and are not enforceable in court if the government fails to protect them.<sup>72</sup> Zambia is, however, in the process of negotiating a new constitution; the current draft that was released on April 30, 2012, would expand

protections for economic and social rights and abolish a provision in the current constitution that permits discrimination in the area of personal and customary law.<sup>73</sup>

### **Penal Code**

The Zambian Penal Code is the primary instrument applied by courts against perpetrators of sexual violence. There are provisions in the Penal Code that criminalize rape, attempted rape, and defilement.<sup>74</sup> The prescribed punishment for these offenses is severe, with maximum terms of life imprisonment for each.<sup>75</sup> However, the law on defilement only applies to sexual relations with a child under the age of 16, which is inconsistent with the definition of a child under international law as under the age of 18.<sup>76</sup> The Code also criminalizes indecent assault of a woman or girl, which carries a maximum sentence of 14 years in prison.<sup>77</sup> Amendments to the Penal Code enacted in 2005 criminalize sexual harassment in an educational institution, or anywhere against a child under the age of 16, including forms of psychological abuse in its definition and prescribing a sentence of imprisonment for 3 to 15 years upon conviction.<sup>78</sup>

### **Anti-Gender-Based Violence Act, 2011**

The Anti-Gender-Based Violence Act, recently passed by the Zambian Parliament after years of advocacy by civil society organizations, provides for the protection and assistance of victims of gender-based violence. The Act defines gender-based violence as “any physical, mental, social or economic abuse against a person because of that person’s gender” and includes violence that results in or is likely to result in physical, sexual, or psychological harm.<sup>79</sup> It contains several important protections for victims, setting out a process through which an individual may apply for a protection order, providing for government-run shelters, and imposing specific duties upon the police, teachers, and any others with relevant information to assist and advise victims.<sup>80</sup> The Act also establishes an Anti-Gender-Based Violence Committee to monitor and advise the government and a fund to be used for the material support, counseling and rehabilitation of victims of violence.<sup>81</sup>

### **The Education Act, 2011**

The Education Act of 2011 includes several provisions that address sexual violence against girls in schools. Section 19 provides that schools “shall not discriminate against a learner in any manner.”<sup>82</sup> Section 28 prohibits corporal punishment and degrading or inhuman treatment of learners and provides a penalty of a fine, up to one year’s imprisonment, or both for such offences.<sup>83</sup> Finally, the Act provides for the establishment of an education board or board of management to develop procedures for preventing and responding to gender-based violence,<sup>84</sup> which is defined by reference to the Anti-Gender-Based Violence Act and includes sexual violence in schools.<sup>85</sup>



## Chapter 3:

# Sexual Violence against Girls in School

While our interviewees generally agreed that sexual violence and harassment occur frequently in Zambian schools, little is known about the precise scope of the problem. Reported cases of sexual violence against girls have sharply increased in recent years, but the Victim Support Unit of the Zambian police does not maintain separate figures on the number of incidents of sexual violence that occur in schools.<sup>86</sup> An official from the Lusaka District Education Board Secretary Office (DEBS), the office charged with initial investigations of complaints against teachers, estimated that an average of 7 to 10 cases of sexual violence in schools are reported to his office each year from the Lusaka school district.<sup>87</sup> However, reports to the police or DEBS cannot provide an accurate gauge of the scope of the problem, as girls rarely report incidents of sexual harassment or violence to their schools, and such cases are even more rarely reported to the police. Among the girls we interviewed, not one spoke of the involvement of DEBS in a case of school-based sexual violence, none of the girls had ever reported a case to the police, and only one girl indicated that a classmate had reported a case to the police.

Notwithstanding this dearth of quantitative information from other sources, our research reveals that sexual violence and harassment are widely prevalent in schools in Zambia. From interviews with 105 schoolgirls, members of national NGOs, teachers, school principals, and DEBS officials, it is evident that schoolgirls face various types of sexual violence including rape, sexual assault, coercive sexual relationships, and sexual harassment in the form of sexualized comments, touching, or threats of sexual assault. In all, 57 students (54% of students interviewed) said that they had personally experienced some form of sexual violence or harassment by a teacher, student, or men they encountered while travelling between home and school, and 88 students (84% of students interviewed) had either experienced such abuse themselves or knew of other girls who had experienced it. This section of the report seeks to convey a vivid sense of the problem of sexual violence against girls in Zambian schools, drawing largely from the insights and experiences of the girls interviewed.

## NUMBER OF STUDENTS (% OF STUDENTS INTERVIEWED) REPORTING SEXUAL VIOLENCE OR HARASSMENT AT SCHOOL

Type of sexual violence or harassment	Girls who personally experienced the abuse	Girls who experienced the abuse or reported knowledge of a classmate's experience
Sexual violence or harassment by a teacher	14 (13%)	60 (57%)
Sexual violence or harassment by a student	48 (46%)	69 (66%)
Sexual violence or harassment by a teacher or student or while travelling to/from school	57 (54%)	88 (84%)

### A. Sexual Violence by Teachers

Some of the most frequently reported instances of sexual violence and harassment in Zambian schools are those perpetrated by male teachers against female students. Sixty of the 105 girls interviewed (57%) said that they knew about teachers at their current or former school who had sexually harassed or abused female students. Fourteen girls (13% of those interviewed) acknowledged that they had been subjected to sexual harassment or violence by a teacher, including nine girls who said that they had been propositioned for sex or a relationship by a teacher, two who had been touched in a sexual way by a teacher without permission, and six who received unwanted sexual comments from a teacher. Incidents of sexual violence by teachers against female students included a range of aggressive behaviors and misuse of authority, including rape, various forms of sexual assault, verbal sexual harassment, and bribing students with money or the promise of better grades.

## NUMBER OF STUDENTS (% OF STUDENTS INTERVIEWED) REPORTING SEXUAL VIOLENCE OR HARASSMENT BY A TEACHER

Type of sexual violence or harassment	Girls who personally experienced the abuse	Girls who experienced the abuse or reported knowledge of a classmate's experience
Sexual violence or harassment by a teacher (any form)	14 (13%)	60 (57%)
Propositioned for sex or a relationship	9 (9%)	59 (56%)
Touched in a sexual way without permission	2 (2%)	3 (3%)
Received unwanted sexual comments	6 (6%)	7 (7%)



The girls we interviewed described teachers who subjected their female students to sexual harassment. One teacher spent portions of class time telling sexually-charged stories and making sexual comments to his students.<sup>88</sup> Some teachers similarly “would embarrass girls and talk about sex”<sup>89</sup> or say “insensitive and embarrassing stuff that made the boys laugh.”<sup>90</sup> Others touched students’ breasts or buttocks, sometimes as a precursor to asking them out.<sup>91</sup>

*I took off my jersey, and my shirt was a little bit open. The teacher stared and said, “Wow, you have nice boobs.” I said, “How can you say those things? I’m young.” He kept quiet but continued approaching me, telling me that I was pretty, asking me out and offering to take me here and there.*

*– Girl student, age 14, grade 9*

Many students described teachers who “proposed love” to them or their friends or classmates, seeking to use their position of power to persuade the students to engage in sexual relationships with them. One ninth-grade student, aged 14, said that two teachers had propositioned her. The first came up to her when she was in the school canteen, made comments about her breasts, and asked her to go out with him. The other teacher used to harass her in class:

*When I was in class, he would come in. Maybe he would find me eating something and say, “I want some of that. When are you going to come to my place to cook for me?” It was just the same thing again and again.<sup>92</sup>*

A seventeen-year-old student in grade 11 said that there were two teachers at her former basic school “who were fond of asking students out.” She had been propositioned twice by one of the teachers and had responded by trying to shame him into leaving her alone. “He asked me to meet him in the street after school,” she explained. “I refused, but he did it a second time. I said, ‘You are old enough to be my dad; you ought to be ashamed of what you are doing.’ That is when he stopped. But I know of others who accepted that same teacher.”<sup>93</sup>

Although school policy prohibits tutoring in a teacher’s home, teachers are still permitted to give one-on-one tutoring after class without supervision,<sup>94</sup> and isolated settings such as empty classrooms and teachers’ offices present opportunities for teachers to proposition students or pressure or force them into having sex. One student observed that male teachers at her boarding high school date female pupils and often initiate liaisons in their offices. “Teachers are frequently stationed at their offices at awkward times, maybe 8 p.m. or 9 p.m.,” she explained. “Girls go to teachers’ offices, and things

happen there.”<sup>95</sup> A twelve-year-old ninth grader described the dilemma that confronted a friend when she asked a teacher for extra help in math. “He said, ‘You should come and find me in my office, where we will be just the two of us.’ She knew what the teacher wanted. She said she would go but didn’t turn up.” Other girls do turn up, the student noted, and they end up dating teachers.<sup>96</sup>

In some cases, teachers have gone beyond propositioning students and used threats or physical force to coerce them into having sex. In a landmark case, which is to date the only successful civil claim against a teacher for sexual violence in Zambia, a young girl received a judgment for damages against a teacher who raped her. In that case, the court found that the abuse had happened when the girl went to the teacher’s home to collect past exam papers. The teacher told her to get the papers from another room, which she discovered was a bedroom. Following the girl into the room, the teacher

*started telling her she was pretty, that he could even marry her. He tried to kiss her, later said that he could not hurt her and she was blank and everything happened so fast. He put his manhood into her vagina and he was on top of her and she was screaming but he covered her mouth with his hand. After that she got her clothes dressed and said she wanted to go home. He told her not to tell anybody as she could be chased from school and he would lose his job.*<sup>97</sup>

Similar cases of sexual violence have never come to the attention of school authorities. According to one student interviewed for this study:

*A teacher forced my friend to have sex with him. He called her and said, “Come to school. Your friends are here.” When she arrived, she did not find anyone there. The teacher told her, “Go to the computer room and get a bottle of water.” He followed her and started asking her questions like, “Do you love me?” He said that if my friend didn’t say yes, she couldn’t go home. “Prove your love,” he said. “Kiss me.” She did what he asked her to do because she wanted to go home. She became his girlfriend.*<sup>98</sup>

The student’s friend ultimately became pregnant and dropped out of school, returning to her family’s village. The teacher, meanwhile, became qualified as a secondary school teacher and at the time of the interview, had just joined the interviewed student’s high school. His presence made the student feel very uncomfortable because she knew what had happened between him and her friend.<sup>99</sup>

Some teachers use the promise of money for food, school fees, or other necessities to convince students to engage in sexual relations with them. Poverty is a constant presence in the lives of many schoolgirls in Zambia, with 66% of households living below the basic poverty line.<sup>100</sup> Eight of the girls interviewed in Lusaka Province had dropped out of school for substantial periods of time, in some cases as long as three years, because they could not afford to pay school fees. Eleven had missed days or weeks of

school because of their inability to pay school fees or buy the books, shoes, or school uniforms required to attend school. Where schoolgirls face a constant struggle for basic necessities, they are vulnerable to the advances of teachers who can provide them with money they desperately need or a taste of small luxuries they have not previously been able to experience.

For example, one sixteen-year-old student in grade 10 recounted, “I have a friend who was dating a teacher. She needed some money to buy food and things. The teacher was giving her money sometimes.”<sup>101</sup> Another student explained that some girls at her school are so poor that “only if they go out with teachers can they get [financial] help.”<sup>102</sup> A tenth-grader highlighted the role that poverty plays in relationships between teachers and students:

*At the [basic] school that I was attending, teachers were proposing love to girls. Even at primary school, there was a senior teacher proposing love to girls. There were two cases I know about. The problem was money or hunger. When a teacher proposes love to a girl, he starts giving her money, helps her if she is hungry, and buys her something so she is having that interest.*<sup>103</sup>

Andrew Ngwenya, the Guidance and Counseling Coordinator for DEBS in Lusaka, noted that teachers sometimes try to take advantage of girls who cannot pay their school fees.<sup>104</sup> This was the situation for a 16-year-old friend of one of the girls we interviewed:

*The teacher lied to the girl and said he would pay for her school. So they had a relationship, and the girl got pregnant. She went to the headmaster. The teacher was transferred to another school and the girl left school.*<sup>105</sup>

VSU officials in the town of Kafue also pointed to the role that poverty plays in teacher-student relationships, noting that girls may submit to sexual advances in order to obtain resources needed for survival or items that their peers possess but they cannot afford.<sup>106</sup> Other teachers gave the girls they were dating preferential treatment at school, helping them to pass even when they did not deserve good marks or refraining from punishing them when their classmates were punished.<sup>107</sup> One magistrate, who had previously worked as a teacher, suggested that some female students believe themselves to be less intelligent than boys, leading them to seek favors from teachers in the form of good marks.<sup>108</sup> Although girls ostensibly choose to engage in these types of dating relationships, their choices are almost invariably colored by elements of coercion given the sharp disparity in power that exists between themselves and their teachers.

*During my grade 9 exam, the teacher told me, “I want to have sex with you so I will show you how to do the exam.” I said, “No, let me pass with only my brain. You are not a God.” He told me that I was going to suffer.*

*– Girl student, age 16, grade 10*

Several girls reported that teachers had abused their position of authority to coerce students into sexual relationships by offering “leakages,” or leaked exam answers, in exchange for sexual favors. In Zambia, the examinations administered in grades 7, 9, and 12 are nationally set and opened only on exam day, then collected and graded centrally. This system makes it very difficult for teachers to have access to an examination in advance or to leak its answers to students. Nonetheless, 15 of the girls we interviewed reported that they had heard of or encountered teachers at their current or former school offering students leakages in exchange for sex. This suggests that some teachers may be seducing students by expressly or implicitly holding out the promise of leaked exam answers, even if they are unable to deliver on that promise. As one student explained:

*When you’re in grade 12 and getting towards exams, girls start looking for leakages. They start getting with male teachers and sleeping with them. I’ve heard of three male teachers who do this. When we have to write our grade 12s, lots of girls go wild because they want to pass.<sup>109</sup>*

Another girl concurred, saying that incidents of teachers offering leakages to girls in exchange for sex “happen a lot, especially at high schools. It happens a lot at this school.”<sup>110</sup> A current ninth-grader observed:

*There are many girls here who go out with teachers to get leakages. I know maybe five to ten girls who do this. Some teachers sleep with girls and give them leakages. Then they take another girl and do the same thing. I’ve heard that there’s a house there near the school, and a teacher asks girls who are writing exams to sleep with him there in exchange for leakages. They say, “Sleep with me, and I will give you a leakage that will make you pass so that you can go ahead [to high school].”<sup>111</sup>*

Another student said that some girls at her basic school believed that having sex with a teacher was the only way to ensure that they could go on to pursue a high school education. “At my school, she explained, “some girls felt that they had no choice but to forge relationships, because of leakages, because they wanted to pass their exams.”<sup>112</sup>

Some teachers further abused their positions of authority by retaliating against girls who refused their advances or broke off a relationship.<sup>113</sup> Girls reported that teachers sent students out of class, refused to call on them, or even physically punished them in front of other students. As noted earlier, Zambian law prohibits the use of corporal punishment in schools, and a teacher or administrator who punishes a student in this way is liable to a fine or imprisonment for up to one year.<sup>114</sup> However, nine of the girls we interviewed told us that they or their classmates had been subjected to corporal punishment at school. Five girls reported cases in which teachers slapped or hit a student in retaliation for turning down his sexual propositions. One tenth-grade student recalled:

*My geography teacher proposed to me, and I refused. After that, when I tried to answer a question in class, he wouldn't call on me or would send me out of the classroom. When the noisemakers made noise, he would beat me. He used a stick on my hands or buttocks. . . . When this happened, I was discouraged at school. When I woke up in the morning, I didn't want to go to school because I knew that the teacher would beat me. I stayed home from school for one week until my mother got me changed to another class.*<sup>115</sup>

A ninth grader at another school recounted a similar story of retaliation against a friend who had refused to have sex with a teacher:

*Because she refused, [the teacher] beat her. At school, the whole class was making noise, and he would just beat her. He beat her with a stick, maybe seven times. She would go outside of class whenever she could. She never used to concentrate, never used to learn. This happened for something like a month. Finally she got her dad to agree to send her to a different school but she never told him what had happened.*<sup>116</sup>

Other interviewees told of teachers at both basic and high schools who retaliated against students who refused their sexual advances by requiring them to cut down grass around school grounds, forcing them to leave the classroom whenever the teacher began teaching a class, or telling their parents bad things about them.<sup>117</sup> Still other teachers threatened students with poor marks or failure if they refused to go out with them or reported their advances.<sup>118</sup>

## **B. Sexual Violence by Male Classmates**

In addition to experiencing sexual abuse by teachers, Zambian schoolgirls reported being sexually harassed, assaulted, and abused by their male classmates. Of the 105 students interviewed, 48 (46% of students interviewed) had personally experienced sexual harassment or abuse from fellow students, including 28 girls who had been pressured to have sex by a boy, 10 who reported being touched by a boy in a sexual way without their permission, and 35 who had been the recipient of unwanted sexual

comments by a boy. Sixty-nine students (66%) had either experienced or knew of other girls who had experienced sexual harassment or violence by fellow pupils at their current or former school.

#### NUMBER OF STUDENTS (% OF STUDENTS INTERVIEWED) REPORTING SEXUAL VIOLENCE OR HARASSMENT BY A FELLOW STUDENT

Type of sexual violence or harassment	Girls who personally experienced the abuse	Girls who experienced the abuse or reported knowledge of a classmate's experience
Sexual violence or harassment by a student (any form)	48 (46%)	69 (66%)
Pressured or forced to have sex	28 (27%)	43 (41%)
Touched in a sexual way without permission	10 (10%)	19 (18%)
Received unwanted sexual comments	35 (33%)	44 (42%)

Girls we interviewed described a culture of sexual harassment at their schools. Boys came up to girls at school and proposed sex, touched their breasts or buttocks, or made sexual comments, such as “your boobs are looking nice”; “you have a big ass”; “I like your body”; “I want to come to your place and visit you”; “I need you to be my girlfriend;” or “Are you going to sleep with me?”<sup>119</sup> One girl described the situation at her school as follows: “Boys touch and grab girls at the school. They touch their breasts, their private parts. They try to touch the girls, try to sleep with them. If you are a girl, if this happens, you just have to run away.”<sup>120</sup> For the most part, girls tolerated this continual harassment, coping with it by avoiding boys when they could and shouting at them or running away when avoidance did not work.<sup>121</sup>

*“In public the boys will threaten girls and say things like, ‘I’m in 12G or B. If you fail to see me there, you will be in a problem.’ They do that a lot. And when he calls you, you think, ‘He can beat me,’ so you go there and say, ‘Oh, I love you.’”*

*– Girl student, age 22, grade 10*

In some cases, boys threatened girls with physical violence if they did not submit to their sexual advances.<sup>122</sup> In one high school, many of the boys, who were boarders, tried to coerce girls into having liaisons with them in their hostel rooms. One girl described a friend whose boyfriend wanted her to have sex. When she refused, “he threatened her, saying, ‘If you refuse, you will see what is going to happen. You will find out.’”<sup>123</sup> Some girls said that the boys who had threatened them did not end up hurting them but they still did not wish to take any chances. Thus even though boys may not carry through on their threats, the prevalence of sexual assault and other forms of gender-based violence in Zambian society made the risk of violence appear all too real for the girls.

There were also accounts of still more serious cases where girls were raped or had narrowly escaped being raped by a classmate.<sup>124</sup> One 17-year-old girl in grade 11 recounted how her boyfriend had choked her until she couldn’t breathe in an effort to force her to have sex with him:

*I was dating a boy who wanted me to have sex with him. I should say that he tried to kill me. He squeezed me so hard on my neck that I couldn’t breathe. When he was hurting me and squeezing on my neck, I just stood there quiet, my tears were dropping. Finally he stopped doing that. I told him we are done....*<sup>125</sup>

A friend of one of the girls we interviewed was raped by a boy student at a party – “she never had the power to push him off her.”<sup>126</sup> Another girl told us about a classmate who had been gang raped by several boys in an empty classroom:

*There is this class that only had one girl, and she was abused sexually. Four boys abused her. They raped her. All of them did. It happened in the classroom after the teacher left.*<sup>127</sup>

In that case, the girl did report the incident, and the boys were suspended, although both they and the girl they had raped remained at the school at the time of our interview.

Although some sexual relationships between students may be consensual, it is evident from interviews with schoolgirls in Zambia that many sexual interactions between students involve elements of coercion, while some clearly rise to the level of rape or sexual assault. Interviews revealed that many girls are extremely wary of interacting with



boys at all, sometimes planning their routes to classrooms or other school locations to avoid boys who might try to touch or grab them on the way. This pattern of behavior reflects a culture of fear and avoidance that is not in any way conducive to ensuring the equal education of girl students or to fostering mutual respect between boys and girls.

### A VIEW FROM SOUTHERN PROVINCE

In July 2012, a WLSA researcher conducted interviews with 48 schoolgirls at four schools (three basic schools and one high school) in urban and rural locations in and near the town of Monze in the Southern Province. Her findings were very similar to those resulting from the research team's interviews in Lusaka Province. Forty-one of the 48 students interviewed in Southern Province had personally experienced some form of sexual harassment or violence by a teacher or student. Two girls had been pressured to have sex by a boy, 12 girls reported being touched by a boy in a sexual way and 24 girls had been the recipient of unwanted sexual comments by a boy. Five girls had been the target of unwanted sexual comments by a teacher. For example a student reported that her teacher had commented to her, "Now that your body has matured, you look very appetizing."<sup>128</sup> One student said that she had been touched by a teacher in a sexual way, recalling that the teacher, who was giving her extra lessons, "asked me to answer a question on the board, and he came behind me and started touching my bottom and made me feel uncomfortable." From then on, the girl said that she always went with her friends to the staff room.<sup>129</sup>

## C. Sexual Violence on the Way to and from School or at Boarding Facilities

The sexual abuse that Zambian girls encounter while attending school is not limited to their interactions with male teachers and classmates. Rather, girls in Zambia are also vulnerable to sexual harassment and violence while travelling to and from school or boarding near or at school.

As Professor Rashida Manjoo, the U.N. Special Rapporteur on Violence Against Women, Its Causes and Consequences, observed in her May 2011 country report on Zambia, "Girls are not only at risk of being subjected to violence in schools but also on the journey to and from school. Great distances to schools also render girls more vulnerable to harassment on the way."<sup>130</sup> Many of the girls we interviewed travelled long distances to school. Of the 68 girls who were asked this question, 34 travelled distances that took 20 minutes to an hour each way, two girls spent between 1 hour and 1 hour 20 minutes on the commute, and six girls travelled for more than 80 minutes each way. For girl students, the walk or minibus ride to and especially home from school was often

uncomfortable and unsafe, with people on the street harassing them on the way. At one school where nearly all of the girl students chose to attend the morning session of the two-session school day, an interviewee explained that this allowed them to avoid walking home in the evening, when they would be at the greatest risk of sexual violence.<sup>131</sup>

This includes, of course, a risk of being sexually attacked. A teacher recounted a case at his school involving an 8-year-old girl who was walking home alone from school when an old man suddenly appeared from the bush and “tried to pounce on her.”<sup>132</sup> Fortunately, community members arrived in time and stopped the man from raping the child. Older girls are equally if not more vulnerable to attack. A 16-year-old girl in ninth grade explained that her friend had been raped on the way home from school:

*My friend was raped by a conductor. He is the one in a mini-taxi who calls for people. It wasn't dark; he did it in the bush. Later my friend's mom was looking for the conductor but didn't find him.*<sup>133</sup>

The girl who had been raped felt so ashamed of what had happened to her that she transferred to another school.

*“When I walk home from school, some people bother me. Sometimes you find a man who is drunk, and he comes and touches you. You have to just go. There isn't anything you can do because that person is bigger than you.”*

*– Girl student, age 17, grade 9*

In addition to facing a real risk of rape or sexual assault, many girls confront frequent sexual harassment when they travel to and from school. Men make rude comments about girls' appearances, propose love or marriage, or come up and touch them. According to one interviewee, a sixteen-year-old girl in grade 10,

*I have problems with people when I go home from school. I have to pass through the bus station. Bus drivers and conductors shout, “Hey what, what, you come here! Just stop school, you have to be married, what, what.” You just have to pretend you're not hearing. You have to get used to that. It is everywhere. Sometimes it makes us feel bad, but you don't find them there all of the time. You can look for different ways to pass to try to avoid them.*<sup>134</sup>

As this quotation suggests, many of the girls we interviewed viewed the harassment to which they were subjected as inevitable. The girls acknowledged that such harassment had a negative impact on them, that it made them feel unsafe and bad.<sup>135</sup> Yet they found

ways to cope with this situation. One girl noted that she sometimes gets angry when men harass her on the street. But “there is nothing I can do, so I just try to ignore it.”<sup>136</sup> Some girls turned to their religion for strength. “I just ignore them and ask the Lord to pour the holy spirit upon them,” said one girl, a 22-year-old in grade 10. “When people are talking bad things, you have to pray that the Holy Spirit will take control.”<sup>137</sup> These girls were both resigned and resilient, finding ways to avoid likely perpetrators or to prevent their words and actions from affecting them too deeply.

At the same time, some girls do accept the advances of men on the street, usually taxi or minibus drivers and usually in exchange for free transportation or money to buy things. In a 2010 report, the U.N. Special Rapporteur on Violence against Women noted that Zambian “girls are reported to have sexual relationships with minibus and taxi drivers as a way of coping with transport costs.”<sup>138</sup> One of the teachers we interviewed corroborated these reports, stating that students who do not have enough money for the minibus are often abused by the bus driver.<sup>139</sup> A sixteen-year-old student in ninth grade observed that she knew girls at another school “who dated conductors because they were attracted to the money.”<sup>140</sup> A 2007 WLSA study included forums for girls to discuss their own experiences with sexual violence in schools; some of the participating girls admitted to having sexual relationships with bus drivers and conductors, not only for transportation costs but also for “talk time for their cell phones, money, and music.”<sup>141</sup> Like the girls we interviewed who entered into dating relationships with teachers, they were often motivated at least in part by their financial needs, including an inability to cover the cost of commuting to school.

Zambian schoolgirls are also vulnerable to sexual harassment and violence by community members while staying at boarding facilities at or near the school. Several studies have documented the experiences of girls who stay during the week in private boarding houses near the school to avoid long commutes home. Unsupervised by parents or school authorities and housed in largely unsafe, makeshift dormitories, these girls are extremely vulnerable to sexual abuse by men, including truck drivers who temporarily stop near the boarding houses, looking for sex.<sup>142</sup> Girls who board at school are more protected; they generally stay in separate buildings on school grounds, supervised by a school matron. Yet they are not immune from harassment or abuse from members of the outside community. Teachers at one rural school described incidents that had occurred the previous year in which community members harassed girl boarders at their dormitories. In that case, vigilant teachers and school administrators were able to resolve the problem.<sup>143</sup>



## Chapter 4:

# The Impact of Sexual Violence on Girls' Health and Education

Sexual abuse by teachers, fellow students or community members can have serious consequences for young schoolgirls. They may experience a variety of physical, mental, and emotional health problems. They often have difficulty concentrating in class, find their education derailed by a teacher's retaliation, or interrupt their education to transfer to another school in order to escape harassment. Some girls become pregnant and drop out of school, often for good. In this section we discuss the multiple ways in which sexual violence in schools violates girls' human rights to health and education.

### A. Health

Sexual violence is associated with a variety of physical and mental health issues, ranging from sexually transmitted infections and fistulas to depression and anxiety. This section examines some of the negative consequences that sexual violence can have on the psychological and physical health of girls who encounter sexual violence in schools in Zambia. These negative consequences effectively deprive girls in Zambia of their human right to health.

#### **Direct physical health consequences**

In addition to immediate physical effects, such as bruises, wounds, or fractures,<sup>144</sup> sexual violence also has more lasting physical health effects on the victim. Chronic Pelvic Pain (CPP) is one such long-term physical condition connected to sexual violence. CPP is commonly caused by infections, but can also arise from other causes connected to childhood sexual abuse, such as injury or stress. There are numerous other enduring gynecological conditions linked with sexual violence, such as painful menstruation, pelvic inflammatory disease, irregular vaginal bleeding, and sexual dysfunction.<sup>145</sup>

Victims of sexual abuse may also contract sexually transmitted diseases from sexual violence, including HIV/AIDS, which is prevalent in Zambia.<sup>146</sup> Numerous examples abound; in Zambia's only successful civil claim against a teacher for sexual violence, the victim contracted a sexually transmitted infection after being raped by her teacher.<sup>147</sup> At the 2011 Ministry of Education's Conference on sexual and gender-based violence, a group of girls discussed a case where a schoolgirl contracted HIV from a teacher.<sup>148</sup> Nalcha Ziba from NGOCC described a similar case.<sup>149</sup> These diseases have negative consequences on the victims' health long after the abuse itself has ended.

Studies on the impact of sexual abuse suggest that children are at a higher risk than adults of contracting HIV. The World Health Organization (WHO) reported in 2002 that forced sex increases the risk of transmitting HIV. As the WHO report explained, “In forced vaginal penetration, abrasions and cuts commonly occur, thus facilitating the entry of the virus—when it is present—through the vaginal mucosa.”<sup>150</sup> This is especially true of adolescent girls because their vaginal mucous membranes are underdeveloped, and they are therefore more susceptible to cuts or abrasions resulting from forced sex.<sup>151</sup> Girls in schools in Zambia who encounter sexual violence are thus at an increased risk of contracting these types of diseases.

### **Physical health consequences arising from early pregnancy and unsafe abortions**

Sexual abuse also poses the risk of an early pregnancy, which is associated with a variety of potentially serious health risks, including obstetric fistulas and the risks posed by unsafe abortions. Fistulas are injuries to a birth canal causing a leakage of urine and/or feces and are more prevalent in young women under the age of 20.<sup>152</sup> In 2010, 378 cases of fistula were treated in Zambia.<sup>153</sup> Moreover, the WHO reported that complications arising from childbirth and pregnancy are the leading cause of death of girls aged 15 to 19 in many low-income nations.<sup>154</sup> Newborn deaths and stillbirths are also 50% more common among adolescent mothers than mothers aged 20-29.<sup>155</sup>

*“[A boy classmate] forced her [to have sex] and afterwards he told her, ‘I will marry you even if you are pregnant.’ So the girl didn’t tell anyone that she had sex with the boy until after she was pregnant. She wanted to do an abortion to remove that thing so she used a lot of herbs. But the medicine that she drunk didn’t work.”*

*– Girl student, age 15, grade 9*

Unsafe abortion is yet another problem arising from sexual violence and pregnancy. Zambian law permits abortion where there is a risk to the life or of injury to the physical or mental health of a woman.<sup>156</sup> The 2005 amendments to the Penal Code Act clarify that under this provision, pregnancy resulting from the rape or defilement of a girl under the age of 16 may be terminated.<sup>157</sup> Furthermore, guidelines issued by the Ministry of Health in 2009 explain that abortions should be conducted based on a woman’s word that a pregnancy was the result of rape or defilement, without requiring the woman to produce specific evidence.<sup>158</sup> Nonetheless, lack of awareness of the law and guidelines, the requirements that three medical practitioners must give consent to the abortion and that it must be performed in a hospital by a registered medical practitioner,<sup>159</sup> and the

scarcity of doctors and hospitals in Zambia<sup>160</sup> make safe and legal abortions practically infeasible in many cases.

Thus, many women and girls may resort to unsafe abortions, which endanger their lives and health.<sup>161</sup> One girl in a rural school told us about the unsafe abortion that had taken the life of her cousin, a 16-year-old schoolgirl:

*My cousin's boyfriend told her, "Today we are going to have sex." The girl refused, and then the boy just closed the door and had sex. She got pregnant and wanted to abort the pregnancy. The baby medicine didn't work so the baby died. She came back home and told her mother that her head was painning, so she went to the clinic to see the doctor and got headache medicine. After three days, she died because of the abortion.*<sup>162</sup>

These examples illustrate the physical harm that sexual violence can cause beyond the direct effect of the violence itself. Unsafe abortions cause 13% of maternal deaths worldwide and approximately 30% of such deaths in Zambia.<sup>163</sup> Thus in situations where girls find themselves pregnant following sexual abuse, they are at a higher risk of pregnancy-related health problems and, if they decide to terminate the pregnancy, at a higher risk of complications and health risks arising from unsafe abortions.

### **Psychological health consequences**

In addition to these potential consequences for a girl's physical health, a United Nations report on violence against women noted that the "psychological consequences of violence against women can be as grave as the physical effects."<sup>164</sup> Common mental health consequences of sexual abuse for women include depression and stress.<sup>165</sup> Women and girls who have been sexually harassed or raped are at a higher risk of committing suicide.<sup>166</sup> Sexually abused women are also at a high risk of developing anxiety disorders, such as post-traumatic stress disorder.<sup>167</sup> Additionally, studies have shown that sexually abused persons often experience feelings of fear and distrust as a result of abuse.<sup>168</sup> Indeed, many of the girls interviewed reported feeling bad, insecure, and afraid after being sexually harassed or sexually abused.<sup>169</sup> One girl described how sexual abuse has affected some of her classmates: "When a girl has been defiled, she becomes really disturbed. Her future ends there."<sup>170</sup> These consequences may be especially severe and long-lasting where the survivor is a child.<sup>171</sup>

It is evident that sexual violence against girls in Zambia can have-term physical and mental health consequences. These negative consequences may deprive girls of their right to health not only at the moment of the violence but also for many years after it has occurred.



## B. Education

When women and girls are deprived of equal access to education, both the individual and society are subject to adverse consequences. Obstacles to education negatively affect a woman's personal development and her ability to contribute to the economic growth of the community and nation.<sup>172</sup> This section explores some of the ways in which sexual violence impedes girls' fundamental human right to an education.

*“[Sexual violence] affects girls’ performance in class. When boys make comments or threats, if the boy in the same class with the girl, she will be feeling shy, failing to answer the question even if she is sharp. Her sharpness will be disturbed somehow.”*

*– Girl student, age 22, grade 10*

### **Diminished academic performance**

Girls who experience sexual violence at school often find themselves distracted, fearful, and unmotivated, unable to concentrate on their studies or to perform well in class. According to the U.N. Secretary-General, sexual violence in schools can lead to a “lack of motivation for academic achievement.”<sup>173</sup> Studies show that sexual violence contributes not only to an absence of motivation but also to poor performance at school.<sup>174</sup> Many of the girls interviewed reported that they or other girls suffered from a loss of concentration in school after experiencing sexual harassment or violence.<sup>175</sup> In a discussion about boys sexually harassing girls, one girl said, “[The boys] confused the girls’ minds and it caused them lack of performance.”<sup>176</sup> After one girl was sexually harassed and abused by another student, she found that she “really couldn’t concentrate at school . . . Writing exams, it was really hard to study.”<sup>177</sup> Other interviewees said that their classmates who began dating relationships with teachers found themselves similarly distracted in class or became unmotivated to work hard because they believed that their teacher-boyfriends would ensure that they received good marks on their exams.<sup>178</sup>

Poor performance in school may be caused by other factors as well. As discussed above, in some cases where a girl rejected her teacher’s advances or ended a relationship with him, he retaliated against her in various ways that impeded her access to education. Some teachers threatened to fail girls or give them bad marks, an act of retaliation that carries weighty consequences for a girl’s educational opportunities, potentially even preventing her from matriculating to the next level of education. Even if the teacher did not follow through on this threat, merely raising the specter of imposed failure would likely negatively affect a schoolgirl’s academic performance. Moreover, according to several girls, a few teachers even used corporal punishment as a form of



retaliation, turning their classrooms into a hostile setting that made it impossible for the girl to learn.<sup>179</sup>

### **Absenteeism and increased drop-out rates**

In some situations, sexual violence, harassment, or retaliation led girls to be absent from class or school. One high school student described her reaction after she was sexually harassed and then retaliated against by her teacher: “I woke up in the morning, saying I was not going to school because the teacher would beat me. I stayed home for one week.”<sup>180</sup> Another girl who, as described above, eventually transferred to a different school because of her teacher’s harassment, “would go outside of class whenever she could.”<sup>181</sup> Several teachers retaliated against girls who had refused their advances or broken up with them by prohibiting them from attending the classes they were teaching, saying things like, “When you see me, you go out,”<sup>182</sup> or “You will not be in my class.”<sup>183</sup> These girls were thus wholly excluded from lessons that they needed to attend in order to advance academically. As reflected by these students’ experiences, absenteeism as a consequence of sexual abuse or fear of sexual abuse is a serious problem and can have devastating effects on a girl’s education.<sup>184</sup>

Sexual violence in Zambian schools has also led girls to drop out of school, a further barrier to girls’ education.<sup>185</sup> A headmaster at an urban school observed that when a girl at his school experienced sexual abuse, he would first see her begin to do poorly in school, then her attendance rate would begin to decrease, until finally, she frequently would stop going to school altogether.<sup>186</sup> When girls drop out of school, sexual violence is often the underlying cause, either because girls feel afraid of going to school and are discouraged by the threat of encountering sexual violence there or because they fall pregnant.

### **Pregnancy, early marriage, and their consequences for girls’ education**

Pregnancy, which may result from sexual abuse by teachers or male classmates as well as by community and family members, is a major cause of high dropout rates for girls.<sup>187</sup> One study found that pregnancy was the reason for 25% of dropouts in Zambia, with 36,256 girls leaving school because of pregnancy between 2004 and 2007.<sup>188</sup> Sixty of the 105 girls we interviewed reported that they knew classmates who dropped out of school after becoming pregnant. Less than a quarter of the girls they knew who had dropped out of school due to pregnancy had returned (29 out of 119), notwithstanding Zambia’s re-entry policy, which allows and encourages pregnant girls to return to school after giving birth.<sup>189</sup> Nationwide, the reentry figures are more promising, yet they too suggest that the policy has not been fully successful. In 2012, the Minister of Education reported that 12,617 girls were re-admitted in school under the reentry policy between 2009 and 2011. In 2009, 5,517 basic school girls were readmitted, amounting to 40% of the number of basic school girls who had become pregnant in the same year.<sup>190</sup>

When pregnant girls do return to school, they often face stigma and discrimination.<sup>191</sup> One girl interviewed noted that it is “very difficult to go back to school” after childbirth because teachers treat the students differently.<sup>192</sup> Teachers sometimes call these girls “makolo” (parent) in class, and fellow students often tease or ridicule them.<sup>193</sup> Describing the effects of teasing, one student noted that she didn’t think her classmates who had become pregnant and dropped out of school would return. She explained, “I think this is because they are shy. They think us as friends will laugh at them for getting pregnant.”<sup>194</sup> Often a student will transfer to another school to avoid the stigma she would receive at her own school.<sup>195</sup> Students also face economic obstacles to continuing their education after they give birth. As one student observed, “The girls [who got pregnant and dropped out of school] won’t come back. They have problems with their families and nobody to sponsor them. Families don’t want to pay school fees for girls who get pregnant.”<sup>196</sup> Thus pregnancy, which may be caused by sexual violence, too often means the end of a girl’s school career.

*“If a girl gets pregnant, her parents don’t want her to go back to school. They refuse to pay her school fees. They try to get money from the man and tell their daughter to get married. That girl’s future has ended.”*

*– Girl student, age 16, grade 10*

Finally, in some cases, sexual abuse in school can lead to early marriage, which is the reason for 32% of dropouts in Zambia.<sup>197</sup> Zambia is ranked tenth globally for prevalence of early marriages, with 42% of women between the ages of 20 and 24 married before the age of 18 and 8% married before the age of 15.<sup>198</sup> Sexual violence at school may compound the problem of early marriage. Families may fail to report sexual violence because they hope to trap the perpetrator into marrying the girl.<sup>199</sup> Researchers have observed similar responses in other countries; for example, in Zimbabwe, parents often request that headmasters not report cases of sexual abuse because the parents are “negotiating for the boy or teacher to marry the girl.”<sup>200</sup> In these situations, the girl not only suffers re-victimization in the form of marriage to her sexual abuser, but also confronts an end to her education and related negative consequences such as reduced ability to access higher paying jobs and reduced independence.



## Chapter 5:

# Barriers to Reporting and Obtaining Redress for Sexual Violence in Schools

Zambian girls who experience sexual violence and harassment at school face multiple barriers to obtaining redress. These include the absence of clear policies and procedures for preventing and responding to abuse, attitudes among school authorities that minimize abuse or blame the girl student, inadequate or inappropriately lenient responses by school teachers and administrators, insufficient support services for children who are subjected to abuse, and a preference for resolving cases of abuse internally rather than reporting them to DEBS offices or civil authorities in appropriate cases. The few girls whose cases do reach the criminal justice system face additional barriers ranging from the lack of resources available to police investigators to the absence of child-friendly court procedures, all of which make it unlikely that these cases will progress very far.

One of the most important barriers, however, may lie in the reluctance of girls who experience sexual abuse to report it. Most instances of sexual violence and harassment against girls in schools are never reported.<sup>201</sup> Among the 105 girls interviewed, only three had reported the harassment or violence they experienced to a teacher or headmaster, and none had filed a complaint with the police. Teachers, school administrators, NGO representatives, and police officers similarly affirmed that most cases of school-based sexual violence and harassment never come to light.

The girls we interviewed indicated that they or their friends did not report violence and harassment because they were not aware of school policies or procedures to address abuse, did not view what had happened to them as an offense, felt that nothing would be done about what had happened, feared that they would be disbelieved and blamed for the sexual abuse they had suffered, or worried that the perpetrator would retaliate against them. Many of those concerns were grounded in girls' personal experiences or their observations of classmates' and friends' experiences. In this way, existing barriers to redress for sexual violence became obstacles to reporting, which further prevented girls from obtaining redress.

### A. Absence of Policies and Procedures

The schools we visited lacked formal policies on sexual violence or harassment.<sup>202</sup> Several DEBS officials noted that a Teachers' Code of Conduct exists that prohibits sexual violence and calls for the dismissal of any teacher found guilty of it;<sup>203</sup> but they were unable to locate it at the time of our visit, as were the several teachers and administrators we asked about the Code. Nearly all of the girls interviewed were unaware of any school policies or of procedures available for reporting abuse. Several

noted that school administrators who might appear to be the appropriate people to whom to report, such as the headmaster or guidance counselor, were unfriendly and unreceptive.<sup>204</sup> This was consistent with an earlier WLSA study that found that “[l]ack of knowledge and information on where to report,” had deterred girls from reporting sexual abuse by a teacher at their school.<sup>205</sup>

Schools also lacked procedures for protecting students who reported sexual abuse. Perhaps the reason most frequently offered by the interviewed girls for girls’ failure to report sexual harassment or violence was a fear of retaliation, particularly where the perpetrator was a teacher. “Nobody reports,” one girl observed. “Maybe teachers tell them that something will happen to them.”<sup>206</sup> Another noted, “Nobody has reported a teacher. Maybe they are scared that the teacher will punish them.”<sup>207</sup> Students did not only fear physical violence but also retaliation in the form of poor grades or negative reports to their parents. “Teachers can go and change things,” one girl said, explaining why girls are too scared to report teachers who harass or abuse them.<sup>208</sup>

A few girls from one high school did indicate that their school had an unwritten policy for responding to sexual violence and harassment. It had held an assembly for girls, at which the school matron told the girls that if any teachers or boys propositioned them or tried to force them into sexual relations, they should report to her.<sup>209</sup> At this school, unlike the others, several cases had been reported. When a girl reported abuse, she would be asked to prepare a written statement of her complaint. The matter would then be taken up by the headmaster and other school administrators. The students did not know what happened after that. These procedures, though not fully transparent, appear to have encouraged increased reporting. Four girls discussed instances of sexual abuse that had been reported, and one girl noted that three cases of sexual abuse by a teacher were currently pending before the administration.<sup>210</sup>

## **B. Normalizing Sexual Abuse**

School officials and girls tended to normalize sexual harassment and sexual relations that were coercive but fell short of rape. No formal sexual education exists in the curriculum of Zambian schools, but in Anti-AIDS Club meetings or other gatherings, teachers told girls to protect themselves by staying away from boys and refusing to believe what they say.<sup>211</sup> Girls were also instructed to avoid wearing short dresses or sitting in a careless way so that boys and men could look up their skirts.<sup>212</sup> These messages suggested to girls that men are naturally aggressive and sexually charged, that harassment is something to be expected. The onus, therefore, was placed upon girls to resist the advances of their teachers and male classmates.

Predictably, then, girls often did not understand what they had experienced as an offense. This was particularly true in cases involving sexual harassment by boy classmates. Girls reported that it made them feel “bad” or “scared” when boys touched them sexually or made sexual comments to them, but for the most part they took this for

granted as something that boys do. “Boys touch girls’ breasts and buttocks,” one student said, matter-of-factly. “This happens a lot. It happens to me. Most of the boys do this. Girls have to just ignore and avoid them. If you see them coming, you move in the other direction.”<sup>213</sup> Others noted that boys will inevitably harass girls if the girl is “weak” or responds to them “in a soft manner.”<sup>214</sup> Similarly, Brenda Mwiinga, YWCA Coordinator of Youth Activities and Child Crisis, said that the girls with whom she works frequently do not believe that when boys at their school bully them and touch their breasts, this is an abuse; “only when they are raped is it seen as abusive.”<sup>215</sup>

Dating relationships between teachers and students were also seen as acceptable or at least as devoid of coercion on the part of the teacher. The girls who entered into those relationships typically saw themselves as having chosen to have done so, even though their choice was often colored by elements of pressure or intimidation and involved an abuse of authority by their teacher. Their classmates agreed, saying that some of their classmates gave teachers signs that they wanted to have a relationship by looking at them in a flirtatious way or sitting in the front of class with a short skirt.<sup>216</sup> “The key is girls,” one student explained. “Even if somebody proposes love to you, it is the girls who can refuse.”<sup>217</sup> Some teachers shared this view and suggested that a relationship between an older student and a teacher should be acceptable as long as one of them transferred to another school.<sup>218</sup> A magistrate and former teacher suggested that teachers were in a difficult position, as they had to contend with being pursued by female students and sometimes could not help falling in love with them.<sup>219</sup> A guidance counselor from an urban school likewise sympathized with teachers who enter into sexual relationships, explaining that “the girl child must avoid ways that may lead into enticing the teacher.”<sup>220</sup>

## C. Blaming Girls

These discriminatory attitudes contribute to an environment in which girls do not report the sexual abuse they experience because they fear that they will be blamed. One girl explained her reluctance to report sexual violence thus: “If I go to the head, what if he thinks I am lying? If I go to the police, they would say I have no proof.”<sup>221</sup> Another suggested that she and her female classmates are scared that if they report sexual violence, they will be “chased from school.”<sup>222</sup> Girls recognize that if they report, they may be blamed for tempting the perpetrator and causing the sexual abuse to happen.<sup>223</sup> The stigma that attaches to victims of sexual violence in Zambia thus contributes to a “culture of silence” that encourages survivors to refrain from speaking about the sexual violence they have suffered.

The girls’ fears were objectively grounded; when they or their classmates did report abuse, they risked being disbelieved or held responsible for the abuse. As one guidance counselor bluntly stated, “Issues of sexual violence cannot always be blamed on the boy who has violated the girl; sometimes the girl has to be blamed.”<sup>224</sup> For example, one

interviewee told us about a girl whose teacher had reported her to her parents for having a sexual relationship with another teacher; she was sent away to her family's village, while the teacher was never held accountable for his actions.<sup>225</sup> Another girl told her mother about a teacher who had propositioned and then retaliated against her when she refused; when they approached the headmaster, he called in the teacher, who "started telling them that I had wanted to sleep with him." The headmaster appeared not to believe the girl, until, upon questioning, the teacher confessed that he was the one who had propositioned her.<sup>226</sup> It was not the teacher's illegal abuse of authority that dominated the proceeding but rather the question of whether the girl herself had initiated the relationship and therefore presumably been to blame.

A girl who reported sexual harassment or abuse could face opprobrium from her community as well as from her school and family. The 15-year-old classmate of one of our interviewees began a dating relationship with her ninth-grade science teacher. The teacher's wife learned about the affair. The girl wanted to report the situation to the headmaster, but women from her community confronted her and told her that she should keep quiet or at least cushion her report to the headmaster because she was to blame. "Don't say things like that," they reportedly told her, "You knew what you were doing. . . . It is part of what God wants for you to learn something, so stop this now."<sup>227</sup> The teacher was not disciplined and is still at that school.

## **D. Inadequate Response by School Officials**

There was a sense among many of the girls we interviewed that reporting violence and harassment was futile. Even if they were not blamed for the abuse, they felt that nothing would be done about it. One student noted that at her previous school, other teachers knew that the ninth-grade teacher was dating a schoolgirl but "never bothered to ask what was going on."<sup>228</sup> "Teachers are hiding the problems of other teachers," another girl explained.<sup>229</sup> Ms. Mwiinga of the YWCA similarly noted that she had observed some teachers covering up cases of sexual abuse by both teachers and students as a way of protecting the image of the school.<sup>230</sup>

Moreover, students had observed other cases of school-based sexual abuse and harassment that *were* reported in which the perpetrator was never punished, learning from such observation that reporting incidents of abuse is a pointless exercise. Only two of the girls we interviewed had personally reported a teacher who had sexually harassed her to another teacher (in one case the head teacher in her grade, in the other the guidance teacher).<sup>231</sup> In both instances, the other teacher had a private conversation with the abusive teacher and told him to stop what he was doing. Neither of the perpetrators was disciplined.

Teachers also recounted situations where other teachers had been accused of sexual harassment or violence but received no more than a warning, if that. One teacher told us that a girl at his school reported that a teacher had threatened to fail her if she did not



have sexual relations with him. The school cautioned the teacher but nothing happened; both the girl and teacher stayed at school.<sup>232</sup> Another teacher described a situation at the school where he had previously taught where a girl's mother found her daughter alone in a room with a teacher at the teacher's house. The mother reported the matter to the school, but because the teacher was a first offender, he was simply cautioned.<sup>233</sup> Similarly, in the R.M. case discussed above, the High Court found that the teacher who raped R.M. had previously flirted with a schoolgirl at R.M.'s school and that the headmaster had simply "warned him and they had the girl (the victim) transferred and left the villain to continue teaching."<sup>234</sup>

One teacher explained that lack of evidence can prevent schools from effectively responding to allegations of sexual violence against teachers. He recalled that at his former school, a group of ninth-grade girls reported to him that a teacher was making sexual advances towards them. He explained that "[s]ince they didn't come in time for us to find the evidence, it was difficult for us to do anything. The administration didn't want to go into an investigation because there was no evidence." The teacher remained at school and the students who had reported him graduated from grade nine and left the school.<sup>235</sup> A belief that girls needed to present hard, physical evidence in order to establish a case of sexual abuse at the school level may have been one reason that the few girls who did report were unable to obtain redress.<sup>236</sup>

In the most serious cases – usually where the girl student became pregnant and the situation could not be swept under the rug – schools did take disciplinary action against teachers. According to DEBS officials in Lusaka, schools are supposed to suspend teachers accused of sexual violence (seen as sexual assault or rape, not sexual harassment or engaging in sexual relations) against a student pending investigation by DEBS, and must dismiss that teacher if found guilty.<sup>237</sup> In one case recounted by an interviewee, a teacher had been dismissed after getting a student pregnant.<sup>238</sup> More often, however, interviewees told us about teachers who been transferred to other schools without a full disciplinary proceeding, thereby reshuffling perpetrators from one school to another.<sup>239</sup> Colleagues at the teacher's new school may be unaware of the allegations because only a headmaster is permitted to review a teacher's files.<sup>240</sup> Moreover, even when a teacher has been dismissed from a government school for sexual violence, the dismissed teacher may still gain employment in a private school.<sup>241</sup>

In the few cases where girls reported sexual violence by boys, the boys were punished leniently. Only one of the girls interviewed had ever lodged a complaint about harassment by a boy classmate; she had been touched sexually by a fellow student and told her teacher about it. The boy was disciplined by being required to dig a hole that was the size of his height.<sup>242</sup> Another student's male classmate was told to "slash" (cut down with a panga or machete) some grass as punishment after he was reported for sending a letter to a girl announcing that he felt like having sex with her whenever he saw her.<sup>243</sup> In the situation described above where a girl was gang raped by her



classmates, the boys were suspended for a time and then returned to school.<sup>244</sup> The girl who told us about this incident did not know if the boys had received any further punishment or counseling or whether the girl who had been raped received medical treatment, counseling, or other support services.

## **E. Lack of Reporting by Schools**

Preferring to resolve cases of sexual abuse quietly and internally or, at the most, to transfer abusive teachers to another school, schools rarely engage formal Ministry of Education processes for the discipline and possible dismissal of teachers. In 1996, the Zambian government decentralized educational responsibilities by creating District Education Boards responsible for monitoring and evaluating school performance.<sup>245</sup> Among other things, DEBS investigates allegations of teacher abuse and recommends appropriate punishment.<sup>246</sup> In theory, school administrations should report allegations of sexual violence to DEBS, which then conducts its own investigation and refers the case to the Provincial Education Officer (PEO), who in turn refers the case to the Permanent Secretary for Human Resources (PS).<sup>247</sup> The PS refers the case to the Teaching Service Commission (TSC), which has the ultimate authority to dismiss a teacher.<sup>248</sup> Because the PEO, PS, and TSC do not conduct their own investigations, DEBS's investigation and recommendation are critical to the punishment of teachers.

As noted above, however, in most cases, schools do not report cases of sexual violence to DEBS. DEBS officials in Lusaka explained that schools usually solve problems themselves, noting that only about 7-8 cases come before them each year.<sup>249</sup> One official said that the office generally got involved in disciplinary proceedings against teachers accused of sexual harassment or abuse in "serious" cases, which he defined as cases such as those resulting in a student's pregnancy.<sup>250</sup>

Moreover, even when DEBS does get involved in a disciplinary proceeding against a teacher accused of sexual violence, this only rarely results in the dismissal of a teacher. Some DEBS officials may sympathize with accused teachers. For example, Songelo Mkandawirem-winnaga, the Human Resource Management Officer at DEBS, Kafue, noted that, "when you look at the teacher, you want to be humanitarian and not punish the teacher too much. You see where he is coming from, he has a wife and children and they say, 'I don't know anything about this,' or they regret it."<sup>251</sup> Moreover, where no physical evidence of sexual violence exists and the teacher does not confess, DEBS typically transfers a teacher to another school.<sup>252</sup> As discussed earlier in this report, the lack of transparency surrounding transfers makes this situation especially problematic, as this may expose students in other schools to the sexually abusive teacher and future malfeasance.

In addition, unlike in South Africa, where schools must report allegations of child abuse to the civil authorities, in Zambia, neither DEBS nor the schools in its jurisdiction are legally required to report sexual violence claims to the police.<sup>253</sup> Our interviews

suggested that they rarely do. The headmaster at an urban school said that he would not refer cases to police authorities and described his belief that the schools should be the ones to investigate in order to ensure the truth comes out.<sup>254</sup> Representatives of several NGOs affirmed that schools generally do not refer cases to the Victim Support Unit of the Zambian police.<sup>255</sup> This may reflect a desire to protect the school's reputation and shield colleagues from criminal prosecution, a perception that the police are not child friendly, or both. Thus administrative disciplinary proceedings do not facilitate girls' access to legal redress.

## **F. Obstacles to Seeking Assistance from the Police**

Girls who experience sexual violence at school face multiple obstacles to pursuing redress through the formal justice system, beginning at the point of approaching the police for assistance.

The Zambia Police Act of 1999 established the Victim Support Unit to respond to cases involving child abuse, property grabbing, sexual offenses, abuse of the elderly, rape, and sexual violence.<sup>256</sup> VSU offices exist in all major Zambian police stations, and its officers receive special training encompassing gender studies, human rights, and law. Frequently collaborating with civil society organizations, they have also engaged in creative strategies to combat sexual violence, including holding campfires with men and boys to promote different mindsets about gender and public education initiatives in schools to teach students about their rights.<sup>257</sup> The VSU represents a powerfully positive development on the part of the Zambian government to strengthen the response of the police to violence against women and children. Nonetheless, a number of challenges remain, which compromise the VSU's ability to assist survivors of school-based violence in obtaining meaningful redress.

According to VSU officers, the most pressing challenge in sexual violence cases is obtaining sufficient and reliable evidence.<sup>258</sup> As VSU National Coordinator Tresford Kasale explained, "In most cases, especially after it is reported after too long, police are unable to find evidence."<sup>259</sup> DNA testing is expensive and difficult to access in Zambia, so evidence of rape or attempted rape is lost if victims do not go to the hospital quickly enough. The Chief Inspector of Kafue's VSU, Inspector Nyumbu, said that victims should report offenses within twenty-four hours. Without a timely report, officers see themselves as constrained to rely on "bad" evidence, such as victim testimony, as opposed to "good" evidence obtained through hospital reports (e.g., semen).<sup>260</sup> Police are often unwilling to take cases forward and courts are typically unlikely to convict if they lack physical evidence of rape or sexual assault.<sup>261</sup> Yet, given the stigma and other barriers that prevent girls from reporting cases of school-based sexual violence at all, survivors are rarely in a position to go to the hospital or the police station immediately after the incident occurs.

The VSU is also afflicted by an absence of adequate resources, including transportation, equipment, and facilities. Although VSUs exist in all police stations, they are not present at the smaller police posts serving rural areas and therefore are inaccessible to students living there.<sup>262</sup> Moreover, VSUs typically lack transportation to take victims to the hospital or travel to conduct investigations.<sup>263</sup> The modes of transport available to VSU officers in Kafue are one motorbike and one bicycle; the station's single car is frequently in use by non-VSU officers.<sup>264</sup> Even when transport is secured, there are rarely funds to pay for gasoline.<sup>265</sup> The burden often falls on the community to provide transportation.<sup>266</sup> Ensuring the privacy of victims can also be problematic. In the Kafue VSU, for example, the building itself is a small, dilapidated structure with broken windows and two offices, neither of which have doors.<sup>267</sup> Victims do not have a private room in which they can describe the sexual violence they have suffered and name the perpetrators without fear of others hearing their complaint and knowing their identity. Where the VSU does not have adequate resources to function, it cannot provide meaningful services to victims of sexual violence and may not serve as an effective avenue towards obtaining redress.

Moreover, despite the efforts of the VSU to make police stations more receptive to children and other vulnerable survivors of violence, many people continue to mistrust the police. A teacher from another school suggested that corruption within the police force in general deters survivors, including students, from reporting cases.<sup>268</sup> A representative of the Zambian National Education Coalition discussed a recent media report of a police officer who had defiled a young girl at the police station and noted that such stories cannot help but undermine confidence in all police officers.<sup>269</sup> In addition, a number of the girls interviewed were not aware of the existence of the VSU at local police stations.<sup>270</sup>

## **G. Obstacles to Pursuing Justice through the Courts**

For students who experience sexual violence at school, the formal court system is frequently inaccessible. As noted above, police officers may decline to refer a case for prosecution where they do not feel that adequate evidence exists. Complex and lengthy court procedures may also deter students from pursuing remedies in court.

Unlike other serious crimes such as murder and aggravated robbery, sexual offenses are often heard by magistrate courts.<sup>271</sup> Zambia's court system consists of a Supreme Court, High Court, Industrial Relations Court, Subordinate Courts, and local courts, the last of which apply African customary law.<sup>272</sup> Magistrate courts are subordinate courts that function as courts of first instance.<sup>273</sup> Magistrates face many challenges, including crowded case dockets, inadequate training in cases involving sexual offenses against children, and lack of access to law reports, copies of recent decisions by the higher courts, or recently enacted laws.<sup>274</sup> This lack of current information can sometimes lead to the potential misapplication of the law; for example, the magistrates with whom we

met disagreed about the legal rule in effect regarding the admissibility of unsworn statements from children too young to be administered an oath.<sup>275</sup>

Moreover, courts in Zambia typically lack “child-friendly” features, such as provisions for child witnesses to testify outside of the courtroom, behind a screen, or by video.<sup>276</sup> Amanda Bissex, Chief of Child Protection for UNICEF, noted that some judges and magistrates do put up screens to protect child witnesses.<sup>277</sup> Nonetheless, in most proceedings, the courtroom is open, often placing the accused directly in front of the child victim.<sup>278</sup> Given the sensitive nature of the topic and taboos against speaking about sex in Zambia, young girls are likely to feel inhibited from speaking honestly.<sup>279</sup> Despite the absence of country-wide protections for child victims and witnesses in court, some magistrates have implemented measures to make courts more sensitive to children. For example, Magistrate Mchimunya Simaubi stated that in Kafue, the proceedings are less formal when a child gives testimony; the court is cleared and a social welfare officer stands in as legal representative.<sup>280</sup>

Schoolgirls who seek legal redress for sexual violence may encounter multiple evidentiary challenges. As noted above, police, prosecutors, and courts strongly prefer physical evidence in sexual offence cases, and this is generally difficult to come by given the scarcity of equipment to analyze DNA and the many factors that prevent most girls from going to the police or a hospital right away. In addition, Zambian law requires a child’s testimony to be corroborated in order for such testimony to be admissible as evidence in a defilement case.<sup>281</sup> This is a difficult requirement to meet in cases involving sexual assault or rape, where there are rarely any witnesses.<sup>282</sup> Honorable Mrs. Arida Chulu, a senior resident magistrate, noted, however, that courts can and should take a broad view of the type of corroboration that is necessary; for example, it could consist of the testimony of a teacher who saw and spoke with the schoolgirl about the incident soon after it occurred.<sup>283</sup>

Another obstacle to redress for girls who experience sexual violence at school may arise from their families’ preference for resolving the matter out of court. A workshop organized by the Zambian Ministry of Education revealed that families sometimes pressure a teacher who has sexually abused a girl to marry her, in exchange for not reporting the abuse or taking the abuser to court.<sup>284</sup> In the face of widespread poverty, some families would rather seek compensation in the form of financial support or marriage than pursue a criminal prosecution that may have little likelihood of success.<sup>285</sup> Moreover, as one magistrate noted, a family can receive more money through private negotiation than they would likely receive in a lengthy civil damages case.<sup>286</sup> Other parents may seek a settlement out of court to protect their children from the trauma of participating in public court proceedings.<sup>287</sup> Zambia’s Criminal Procedure Code provides that subordinate courts may promote reconciliation in criminal cases involving assault or other offences not constituting a felony.<sup>288</sup> This provision may encourage survivors’ families to opt for settlement rather than prosecution in such cases even after a case

has been initiated.<sup>289</sup> Moreover, lack of support from survivors or their families at any stage of an investigation or trial typically dooms the prosecution and prevents the survivor from obtaining legal redress.<sup>290</sup>

Finally, girls who seek justice through the courts may encounter harassment or intimidation from their abuser. Unlike individuals accused of committing murder, treason, or aggravated robbery, those accused of rape or sexual assault may be released on bail.<sup>291</sup> The 2011 Anti-Gender-Based Violence Act helps to protect victims and witnesses of sexual violence by authorizing courts to grant orders of protection.<sup>292</sup> However, most of the law enforcement officials and magistrates with whom we met were unclear about whether they had authority under the act to seek and grant orders of protection on behalf of a victim, and they suggested that no orders had yet been applied for or granted by a Zambian court. Thus, it does not appear that this provision has, to date, been effectively publicized and implemented.



## Chapter 6:

# Zambian Government Initiatives

In recent years, the problem of sexual harassment and violence against girls in schools has received increased attention from the Zambian government, which has taken a number of promising measures in an effort to prevent and provide redress for this serious human rights problem.

In 2010, the Ministry of Education issued an order that prohibited teachers from conducting private tutoring sessions in their homes. This new policy sought to prevent teachers from taking advantage of the privacy of this setting to sexually abuse their students.<sup>293</sup> One of the students we interviewed suggested that the prohibition against tutorials in teachers' homes is sometimes disregarded, noting, "Sometimes girls go to teachers' houses on Saturdays for extra research. But then the teacher asks the girl to sleep with him."<sup>294</sup> However, this appeared to be the exception to the rule; other students, teachers, and administrators indicated that tutoring sessions took place at school or at alternative public locations, and nobody described a specific recent incident of sexual violence that had occurred at a teacher's home.

The government has also collaborated with civil society partners to establish girls' clubs and programs that empower girls to protect themselves from and seek redress for sexual violence perpetrated by teachers or fellow students. Following the R.M. case, which highlighted the vulnerability of girls to sexual abuse at school, a coalition of Zambian civil society organizations, including CAMFED, FAWEZA, Planned Parenthood Association of Zambia, and the YWCA, established a "safe spaces" program in schools where adolescent girls can learn about and realize their rights. The program gives girls a meeting space, provides them with knowledge and skills, and trains female teachers, staff members, and older students to serve as mentors. The program teaches girls to protect themselves from sexual violence and counsels them on where to seek help if they experience it.<sup>295</sup> All-girls clubs such as the Girls' Network also offer girl students an opportunity to discuss issues of particular concern to them and, through collective discourse and action, enhance their ability to protect themselves from violence.<sup>296</sup>

In addition, the Zambian government has initiated important legislative changes through its amendments to the Penal Code in 2005 and adoption of the Anti-Gender-Based Violence and Education Acts in 2011.<sup>297</sup> Sexual harassment is now codified as a criminal offense and covers various sexual offenses that do not meet the legal definition of rape, attempted rape, or indecent assault. The Anti-Gender-Based Violence Act, once fully implemented, will likely encourage more reporting and facilitate access to justice in cases involving sexual violence against schoolgirls. Teachers and administrators are now required to inform girls who experience sexual violence of their rights and available remedies, including their right to file a complaint with the police or to seek a protection

order, and to help them obtain legal or other support. By establishing a procedure through which a victim of violence may apply to the court for an order of protection and providing for the establishment of shelters, the Act helps to guard girls against continued abuse or retaliation by their abuser. Through its fund to support the material and counseling needs of victims, the Act's provisions will go a long way towards addressing some of the negative health consequences described above.

For its part, the Education Act provides for the creation of an education board or board of management to develop procedures to prevent and respond to gender-based violence in schools.<sup>298</sup> In line with this provision, the Zambian Ministry of Education is presently working with UNICEF and other partners to develop a "National Child Protection Policy for Schools." Importantly, this policy seeks to protect children from and respond effectively to sexual violence and other forms of child abuse in schools.<sup>299</sup> For example, it provides that the Ministry of Education must establish procedures for reporting and responding to cases of sexual abuse, implement measures to ensure that perpetrators are adequately punished, and strengthen counseling and other support services available to child survivors of abuse. It also calls upon schools to adopt codes of conduct for teachers and students and provides for the establishment of various forms of training and public education initiatives to increase awareness of child protection issues.<sup>300</sup> The draft policy represents a critical step towards developing a unified national policy for the prevention and punishment of child abuse, including sexual abuse, in schools, although much will depend upon whether and in what form it is adopted and how it is ultimately put into effect.



## Conclusion and Recommendations

*“If I was the head of the school, I’d want all the pupils to be free and not get scared because of a teacher saying that if you don’t have sex with me you won’t pass. I wouldn’t tolerate those things. It is not the right thing to do. Teachers are supposed to teach pupils and not try to destroy their future by wanting to have sex with them. I would talk to every teacher and make them take this serious and understand that. What if their pupil was their child? They wouldn’t like to know that their child was sexually abused by their teacher. I think they should just understand that these are children and that we are the future of tomorrow. If they try to destroy our future and we don’t learn, I don’t know how our country will be in the future.”*

*– Girl student, age 14, grade 9*

Sexual violence and harassment are common in Zambian schools. Girls have been raped, assaulted, and subjected to sexual comments and touching by teachers, male classmates, and the men they encounter while walking to and from school or residing in boarding facilities nearby. Such acts violate girls’ fundamental human rights guaranteed by international and regional law, including their right to personal security and bodily integrity, their right not to be subject to torture or cruel, inhuman, or degrading treatment, their right not to be discriminated against, and their rights to the highest attainable standard of health and to pursue and enjoy an education that is equal to that of boys.

Recognizing the enormously high costs of sexual violence for both the girls who experience it and their society, the Zambian government has undertaken several promising legislative and policy measures to address this serious human rights problem. Yet despite these important steps forward, sexual violence and harassment at school are still, in most cases, swept under the rug, remaining unreported by its survivors and overlooked by school officials. In the few cases where girls do report the abuse they suffered, they confront powerful obstacles to achieving redress. We hope that this report and the modest recommendations it offers below will contribute to the Zambian government’s efforts to overcome these obstacles in line with its international, regional, and domestic human rights obligations, and eliminate the scourge of sexual violence from all Zambian schools.

### **To the Zambian Government in general**

- Effectively implement the Anti-Gender-Based Violence Act, including through the formulation of an Anti-Gender-Based Violence Committee and Anti-Gender-Based Violence Fund, as well as the establishment of shelters and other measures to protect survivors of gender-based violence
- Educate teachers, school officials, police officers, magistrates, and other relevant actors about their obligations under the Anti-Gender-Based Violence Act, including their duties to inform violence survivors about their rights and assist them in accessing legal, psychosocial, and other support
- Establish new and strengthen existing mechanisms for collecting qualitative and quantitative information about the prevalence of sexual violence and harassment in schools throughout Zambia
- Strengthen the provision of legal aid for girls who experience sexual violence in school, including in cases where they may wish to file a civil lawsuit against the perpetrator
- Expand the resources available to the VSU to support their investigation of sexual violence cases, public education campaigns, and specialized training of VSU officers
- Establish more courts and appoint more judges at all levels of the judiciary to alleviate their severe backlog of cases, including sexual violence cases
- Effectively implement Zambia's international and regional human rights obligation to protect girls from sexual violence and provide them with a meaningful remedy, including through legislative and policy reform

### **To the Ministry of Education**

- Effectively implement the Education Act, including through the establishment of an Education Board or Board of Management charged with developing procedures for preventing and responding to gender-based violence
- Strengthen, adopt, and give effect to the draft National Child Protection Policy for Schools, making available the necessary institutional framework to ensure effective implementation
- Develop and enforce national codes of conduct for teachers, school employees, and students that prohibit all forms of sexual violence and harassment at school, establish that this prohibition extends to relationships between teachers and students at their school regardless of the student's age or whether she consented to the relationship, and require teachers to comply with the code of conduct as a condition of employment

- Design and implement guidelines for schools on responding effectively and expeditiously to reports of sexual violence or harassment and for disciplining teachers or students found to have engaged in such conduct, including by instituting anonymous mechanisms for reporting cases of sexual violence and harassment and measures to protect students from retaliation
- Widely distribute and publicize the codes of conduct, guidelines, and other policy documents among all teachers, students, and other participants in the education system
- Enforce punishments for sexual violence and harassment that are commensurate with the offense, including the mandatory dismissal of teachers who are found to have sexually abused students
- Strengthen the monitoring role of DEBS and enforce reporting of sexual violence cases by school officials to DEBS and to the police or other civil authorities
- Strengthen guidance and counseling resources available to students at school
- Encourage girls who have left school due to pregnancy, early marriage, or other reasons to return and provide them with counseling and other support when they do
- Implement comprehensive education and training programs on issues relating to sexual violence and harassment for teachers, school administrators, other school staff, and students, as well as students' families
- Implement programs that educate students about sex, provide them with life skills, and challenge harmful gender stereotypes
- Work with civil society organizations to expand and strengthen student organizations like "Safe Spaces" and "Girls Network" clubs that offer girls a safe environment in which to discuss sexual harassment and violence at school and empower them to report such abuse where it occurs

### **To School Administrators and Teachers**

- Respond effectively and expeditiously to reports of sexual violence or harassment, including by instituting anonymous mechanisms for reporting cases of sexual violence and harassment and measures to protect students from retaliation
- Discipline teachers and students found to have engaged in sexual violence or harassment and ensure that the punishment is commensurate with the offense
- Report sexual violence cases to DEBS and to the police or other civil authorities in appropriate cases
- Strengthen guidance and counseling resources available to students at school and ensure that students are aware of and can comfortably access such support

- Ensure that the National Child Protection Policy for Schools, once adopted, and other national guidelines, codes of conduct, and policy documents addressing sexual violence and harassment in schools are distributed widely among teachers, staff, and students and are effectively implemented

### **To the Zambian Parliament**

Consider implementing the following legislative reforms:

- Requiring school employees and other relevant actors to report sexual violence and other forms of child abuse to the police
- Mandating the termination of a teacher's contract if he is found to have sexually harassed or abused a student
- Amending the definition of a "child" under the Penal Code and other legislation so that they are consistent with international law and afford protection to all children under the age of 18

### **To the Zambian Judiciary**

- Ensure that magistrates are apprised of current statutes and case law, particularly those applicable to cases involving sexual violence against girls
- Expand training for all judges and magistrates handling child and adolescent sexual violence cases, including training on the diverse types of corroborative evidence (not limited to physical evidence) that are acceptable in a sexual offense case
- Develop courtrooms that have "child friendly" features aimed at the protection of child witnesses, such as provisions for children to testify behind a screen or by video



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# Endnotes

## Chapter 1: Background

<sup>1</sup> Central Intelligence Agency, The World Factbook: Zambia, <https://www.cia.gov/library/publications/the-world-factbook/geos/za.html> (last visited July 31, 2012).

<sup>2</sup> *Id.*

<sup>3</sup> U.S. Department of State, Background Note: Zambia, <http://www.state.gov/outofdate/bgn/zambia/196490.htm> (last visited August 31, 2012).

<sup>4</sup> Perpetual Sichikwenkwe, Gender Links, SADC Gender Protocol Barometer Baseline Study: Zambia 19 (2009), *available at* <http://www.genderlinks.org.za/article/sadc-gender-protocol-barometer-baseline-study-zambia-2009-10-16>; World Bank, Zambia Country Brief (last visited Sept. 14, 2012), at <http://go.worldbank.org/FEPSKV1TZ0>.

<sup>5</sup> World Bank, Zambia Country Brief, *supra* note 4.

<sup>6</sup> United Nations Children's Fund, Zambia Statistics, Section on HIV/AIDS, [http://www.unicef.org/infobycountry/zambia\\_statistics.html#89](http://www.unicef.org/infobycountry/zambia_statistics.html#89) (last visited July 25, 2012).

<sup>7</sup> Sichikwenkwe, *supra* note 4, at 19.

<sup>8</sup> See Government of the Republic of Zambia, Office of the International Conference on the Great Lakes Region, Zambia's Country Report on the Situation of Sexual and Gender Based Violence 8 (October, 2011) [hereinafter Zambia's Country Report]. Sexual violence is defined by the World Health Organization as "any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances . . . against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including, but not limited to home and work." World Health Organization, World Report on Violence and Health 149 (Etienne G. Krug et al. eds., 2002) [hereinafter WHO VAH Report].

<sup>9</sup> Victim Support Unit, Gender Based Violence Crime Statistics for the Year 2011 (on file with authors) [hereinafter VSU 2011 GBV Statistics]; Victim Support Unit, Gender Based Violence Crime Statistics for the Year 2009 (on file with authors) [hereinafter VSU 2009 GBV Statistics].

<sup>10</sup> Zambia's Country Report, *supra* note 8, at 15.

<sup>11</sup> See VSU 2011 GBV Statistics, *supra* note 9; VSU 2009 GBV Statistics, *supra* note 9. In November 2011, police at the VSU in Kafue, Zambia, said that they received an average of 10 sexual violence cases per day, most of which were perpetrated against children. Interview with Ms. Nyumbu, Chief Inspector, VSU, in Kafue, Zambia (Nov. 23, 2011).

<sup>12</sup> See Women and Law in Southern Africa, Synthesised Report of the Girls' Empowerment and Consultative Forums in Zambia 24-28 (2007) [hereinafter WLSA Report].

<sup>13</sup> UNFPA, Gender Equality, Ending Widespread Violence Against Women, <http://www.unfpa.org/gender/violence.htm> (last visited Aug. 15, 2012).

<sup>14</sup> See Anthony Simpson, *Sons and Fathers/Boys to Men in the Time of AIDS: Learning Masculinity in Zambia*, 31 J. So. Af. Stud. 569 (2005) (examining how a group of men came to construct their sense of maleness through observation of their fathers and then through their sexuality as young adults).

<sup>15</sup> Zambia's Country Report, *supra* note 8, at 18.

<sup>16</sup> U.N. Secretary-General, World Report on Violence against Children 119 (2006) (Paulo Sérgio Pinheiro) [hereinafter U.N. Secretary-General World Report].

<sup>17</sup> U.N. Secretary-General, In-depth Study on All Forms of Violence against Women: Report of the Secretary-General ¶ 107, U.N. Doc. A/61/122/Add. 1 (July 6, 2006) [hereinafter U.N. Secretary-General Report on All Forms of Violence against Women].

<sup>18</sup> United Nations Educ., Scientific and Cultural Org., World Data on Education: Zambia 5-6 (7th ed.) (2010-2011).

<sup>19</sup> World Bank, Zambia Education Sector Public Expenditure Review: Volume 1, 3 (2006).

<sup>20</sup> See Zambia Ministry of Education, Directorate of Planning and Information, Educational Statistical Bulletin 12, Tbl. 7 (2008).

<sup>21</sup> See Brendan Carmody, The Evolution of Education in Zambia 64-7 (2004); The Education Act of 2011 (Zambia), Parts V-VIII.

<sup>22</sup> Zambian Ministry of Health, Zambian Health and Demographic Survey 18-20, § 2.3.2 (2007).

<sup>23</sup> Sichikwenkwe, *supra* note 4, at 36.

<sup>24</sup> Special Rapporteur on Violence Against Women, its causes and consequences, Report of the Special Rapporteur on violence against women, its causes and consequences- Addendum-Mission to Zambia, ¶ 34, U.N. Doc.



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A/HRC/17/26/Add.4 (May 2, 2011) (by Rashida Manjoo) [hereinafter Special Rapporteur on VAW Report – Zambia Addendum].

<sup>25</sup> Carmody, *supra* note 21, at 58.

<sup>26</sup> Education Act No. 23 (2011) (Zambia) § 119 (2).

<sup>27</sup> See Chris Petruskis and Sheila Nkunika, Jesuit Centre for Theological Reflection, *How Free Is Free Education? The Cost of Education in Lusaka 2* (2006).

<sup>28</sup> See Monica Munachonga, Interregional Project “Enhancing Capacities To Eradicate Violence Against Women (Vaw) Through Networking Of Local Knowledge Communities”: Zambia Country Study On Vaw47 (2011); interview with girl student, age 16, grade 9, Lusaka Province, Zambia (May 2012).

<sup>29</sup> FAWEZA, Impact Assessment of Safe Houses and Hostels: A Case of Kabwe, Mazabuka, Livingstone Pemba, Chipata, Serenje, Solwezi and Mumbwa 15 (2d draft 2010) [hereinafter FAWEZA, Impact Assessment of Safe Houses and Hostels].

<sup>30</sup> WLSA Report, *supra* note 12, at 25-26; interview with girl student, age 20, grade 11, in Lusaka Province, Zambia (May 2012); interview with girl student, age 17, grade 11, Lusaka Province, Zambia (May 2012); interview with girl student, age 14, grade 10, in Lusaka Province, Zambia (May 2012).

<sup>31</sup> Interview with girl student, age 15, grade 11, in Lusaka Province, Zambia (May 2012).

<sup>32</sup> Interview with girl student, age 17, grade 11, in Lusaka Province, Zambia (May 2012).

<sup>33</sup> Interview with girl student (1), age 17, grade 11, in Lusaka Province, Zambia (May 2012); interview with girl student, age 15, grade 11, in Lusaka Province, Zambia (May 2012); interview with girl student (2), age 17, grade 11, in Lusaka Province, Zambia (May 2012).

## Chapter 2: Zambia’s Legal Obligations

<sup>34</sup> International Covenant on Civil and Political Rights, arts. 6, 7, 9, 24(1) [hereinafter ICCPR].

<sup>35</sup> U.N. Committee on the Elimination of Discrimination Against Women, General Recommendation No. 19, ¶ 7, U.N. Doc. A/47/38 (1992) [hereinafter CEDAW General Recommendation No. 19] (noting that “gender-based violence impairs or nullifies the enjoyment by women of human rights and fundamental freedoms,” including, among others, the rights to life, liberty and security of person, and not to be subjected to torture or cruel, inhuman, or degrading treatment).

<sup>36</sup> ICCPR, art. 2.

<sup>37</sup> Convention on the Rights of the Child, arts. 3, 19(1) [hereinafter CRC].

<sup>38</sup> *Id.* art. 19(1).

<sup>39</sup> See U.N. Committee on the Rights of the Child, General Comment No. 13: Article 19: The Right of the Child to Freedom From All Forms of Violence, ¶ 33, U.N. Doc. CRC/C/GC/13 (2011) [hereinafter CRC General Comment 13].

<sup>40</sup> *Id.* ¶ 34.

<sup>41</sup> CRC, art. 19(2).

<sup>42</sup> *Id.*

<sup>43</sup> See Convention on the Elimination of All Forms of Discrimination Against Women, art. 2 [hereinafter CEDAW]. CEDAW defines discrimination as “any distinction . . . made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women . . . of human rights and fundamental freedoms. . . .” *Id.* art. 1.

<sup>44</sup> CEDAW General Recommendation No. 19, *supra* note 39, ¶ 1.

<sup>45</sup> *Id.* ¶ 7.

<sup>46</sup> *Id.* ¶ 18 (noting that “such conduct can be humiliating and may constitute a health and safety problem; it is discriminatory when the woman has reasonable ground to believe that her objection would disadvantage her in connection with her employment . . .”). Although General Recommendation 19 defines sexual harassment in the specific context of employment, the CEDAW Committee has recognized that harassment may also take place in other venues, such as schools. See, e.g., CEDAW Committee, Concluding Observations: Zimbabwe (advance unedited version), ¶ 29, U.N. Doc. CEDAW/C/ZWE/CO/2-5 (March 2, 2012).

<sup>47</sup> CEDAW, art. 2(d).

<sup>48</sup> See *id.*, art. 1; CEDAW General Recommendation No. 19, ¶ 9; Declaration on the Elimination of Violence Against Women, art. 4.

<sup>49</sup> International Covenant on Economic, Social, and Cultural Rights, art. 2 [hereinafter ICESCR] (requiring states to “ensure the equal right of men and women to the enjoyment of economic, social and cultural rights” found in that treaty, including the rights to education and to health). See also *id.* art. 12 (right to health), art. 13 (right to education).

<sup>50</sup> *Id.* art. 13.

<sup>51</sup> *Id.*

<sup>52</sup> Protocol on the Prevention and Suppression of Sexual Violence Against Women and Children, art. 1(5)(i) [hereinafter Great Lakes Protocol].

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<sup>53</sup> *Id.* art. 1(5). These deprivations of liberty include any gender-based violence that interferes with the right to achieve the highest attainable standard of physical and mental health, the right to liberty and security of person, the right to equality within the family, or the right to equal protection under the law. See CEDAW General Recommendation No. 19, ¶ 7.

<sup>54</sup> Great Lakes Protocol, art. 4. This standard includes negligence, recklessness, knowledge, or intent.

<sup>55</sup> *Id.* art. 6(6).

<sup>56</sup> *Id.* arts. 6(4), 6(7).

<sup>57</sup> Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, art. 3(4) [hereinafter Protocol on the Rights of Women].

<sup>58</sup> *Id.* art. 4(1) & (2).

<sup>59</sup> *Id.* art. 25.

<sup>60</sup> African Charter on Human and Peoples' Rights, art. 18(3) [hereinafter African Charter]. This provision incorporates the definitions of those rights found in international instruments.

<sup>61</sup> African Charter on the Rights and Welfare of the Child art. 16(1) [hereinafter ACRWC].

<sup>62</sup> *Id.* art. 14(1).

<sup>63</sup> *Id.* art. 11(3)(d); Southern African Development Community Protocol on Gender and Development, art. 11 § 1(b) [hereinafter SADC Gender Protocol].

<sup>64</sup> ACRWC, art. 11(3)(e).

<sup>65</sup> *Id.* art. 11(6).

<sup>66</sup> SADC Gender Protocol, art. 14.

<sup>67</sup> Protocol on the Rights of Women, art. 12(1).

<sup>68</sup> *Id.* art. 12(2).

<sup>69</sup> SADC Gender Protocol, art. 32.

<sup>70</sup> See Zambia Const. (Constitution Act 1991) (as amended by Act No. 18 1996) arts. 11–13, 15, 24.

<sup>71</sup> See *id.*, art. 24. A person who suffers a violation of his or her fundamental rights has a right to be heard by the High Court. See *id.* art. 28.

<sup>72</sup> *Id.* arts. 110–113.

<sup>73</sup> See Republic of Zambia, First Draft Const., 30 Apr. 2012, arts. 27, 61, 62.

<sup>74</sup> Penal Code Act of 1964, §§ 132 (rape), 134 (attempted rape), 138 (defilement), 7 L. Rep. of Zambia Ch. 87 (1995), available at <http://unpan1.un.org/intradoc/groups/public/documents/CAFRAD/UNPAN004895.pdf>.

<sup>75</sup> *Id.* §§ 133, 134, 138.

<sup>76</sup> *Id.* Cf. CRC, art. 1.

<sup>77</sup> *Id.* § 137. Consent is not a valid defense for indecent assault if the girl is under twelve years old. *Id.*

<sup>78</sup> Penal Code (Amendment) Act of 2005, Supp. to Rep. of Zambia Govt. Gazette (Acts) of October 7, 2005, at § 137A(1). The Act defines sexual harassment as including "(a) a seductive sexual advance being an unsolicited sexual comment, physical contact or other gesture of a sexual nature which one finds objectionable or offensive or which causes discomfort in one's studies or job and interferes with academic or work performance or a conducive working or study environment; (b) sexual bribery in the form of soliciting or attempting to solicit sexual activity by promise of reward; and (c) sexual threat or coercion which includes procuring or attempting to procure sexual activity by threat of violence or victimization; or (d) sexual imposition using forceful behavior or assault in an attempt to gain physical sexual contact." *Id.* § 137A(3).

<sup>79</sup> Anti-Gender-Based Violence Act of 2011 (Zambia), Part I, § 3(1).

<sup>80</sup> *Id.* Part II, §§ 5, 8; Part III; Part IV.

<sup>81</sup> *Id.* Part IV §§ 31, 32.

<sup>82</sup> Education Act No. 23 (2011) (Zambia) § 19.

<sup>83</sup> *Id.* § 28. Under the Convention on the Right of the Child, forcing a child to engage in sexual activity is cruel, inhuman, or degrading treatment. See CRC, art. 27; CRC General Comment 13, ¶ 26. Section 28 of the Education Act of 2011, which prohibits corporal punishment or degrading or inhuman treatment of learners and provides a penalty of a fine or up to one year's imprisonment or both is applicable to a case involving sexual violence by a teacher or school employee. Certainly, it also applies where a teacher uses corporal punishment against a student in retaliation for refusing his sexual advances.

<sup>84</sup> See Education Act § 32(1)–(2).

<sup>85</sup> Anti-Gender-Based Violence Act of 2011 (Zambia), Part I, § 3(1).

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## Chapter 3: Sexual Violence against Girls in School

- <sup>86</sup> Interview with Tresford Kasale, National Coordinator, VSU, in Lusaka, Zambia (Nov. 21, 2011); interview with Ms. Nyumbu, Chief Inspector, VSU, in Kafue, Zambia (Nov. 23, 2011).
- <sup>87</sup> Interview with Andrew Ngwenya, Guidance and Counseling Coordinator, DEBS, in Lusaka, Zambia (Nov. 22, 2011).
- <sup>88</sup> Interview with girl, age 15, grade 11, in Lusaka Province, Zambia (May 2012).
- <sup>89</sup> Interview with girl student, age 16, grade 10, in Lusaka Province, Zambia (May 2012).
- <sup>90</sup> Interview with girl, age 14, grade 10, in Lusaka Province, Zambia (May 2012); interview with girl, age 22, grade 20, in Lusaka Province, Zambia (May 2012); interview with girl, age 17, grade 11, in Lusaka Province, Zambia (May 2012); interview with girl, age 16, grade 11, in Lusaka Province, Zambia (May 2012).
- <sup>91</sup> See, e.g., interview with girl, age 17, grade 11, in Lusaka Province, Zambia (May 2012); See also interview with girl, age 16, grade 11, in Lusaka Province, Zambia (May 2012); interview with girl 2, age 16, grade 11, in Lusaka Province, Zambia (May 2012).
- <sup>92</sup> Interview with girl student, age 14, grade 9, in Lusaka Province, Zambia (May 2012).
- <sup>93</sup> Interview with girl student, age 17, grade 11, in Lusaka Province, Zambia (May 2012).
- <sup>94</sup> Interview with teacher in Lusaka Province, Zambia (Nov. 2011).
- <sup>95</sup> Interview with girl student, age 17, grade 11, in Lusaka Province, Zambia (May 2012).
- <sup>96</sup> Interview with girl student, age 12, grade 9, in Lusaka Province, Zambia (May 2012).
- <sup>97</sup> R.M. v. Edward Hakasenke, Zambia, High Court, 2006.
- <sup>98</sup> Interview with girl student, age 16, grade 10, in Lusaka Province, Zambia (May 2012).
- <sup>99</sup> *Id.*
- <sup>100</sup> International Labour Organization, Decent Work Country Profile: Zambia 15 (2012). The percentage is even higher among women (70%) and in rural areas (nearly 80%). *Id.* at 16.
- <sup>101</sup> Interview with girl student, age 15, grade 11, in Lusaka Province, Zambia (May 2012).
- <sup>102</sup> Interview with girl student, age 16, grade 11, in Lusaka Province, Zambia (May 2012).
- <sup>103</sup> Interview with girl student, age 22, grade 10, in Lusaka Province, Zambia (May 2012).
- <sup>104</sup> Interview with Andrew Ngwenya, Guidance and Counseling Coordinator, DEBS, in Lusaka, Zambia (Nov. 22, 2011). Nalcha Ziba, a representative of NGOCC in Lusaka, Zambia, gave a similar report. Interview with Nalcha Ziba, NGOCC, in Lusaka, Zambia (Nov. 21, 2011).
- <sup>105</sup> Interview with girl student, age 13, grade 8, in Lusaka Province, Zambia (May 2012).
- <sup>106</sup> Interview with Ms. Nyumbu, Chief Inspector, VSU, in Kafue, Zambia (Nov. 23, 2011).
- <sup>107</sup> Interview with girl student, age 17, grade 11, in Lusaka Province, Zambia (May 2012); interview with girl student age 14, grade 9, in Lusaka Province, Zambia (May 2012); interview with girl student, age 15, grade 11, in Lusaka Province, Zambia (May 2012).
- <sup>108</sup> Interview with Mchimunya Simaubi, Magistrate, in Kafue, Zambia (Nov. 23, 2011).
- <sup>109</sup> Interview with girl student, age 17, grade 11, in Lusaka Province, Zambia (May 2012).
- <sup>110</sup> Interview with girl student, age 18, grade 12, in Lusaka Province, Zambia (May 2012).
- <sup>111</sup> Interview with girl student, age 16, grade 9, in Lusaka Province, Zambia (May 2012).
- <sup>112</sup> Interview with girl student, age 16, grade 10, in Lusaka Province, Zambia (May 2012).
- <sup>113</sup> Studies in other countries have documented similar responses by spurned teachers. See Ruth Evans, *Poverty, HIV, and Barriers to Education: Street children's experiences in Tanzania*, 10 Gender & Dev. 51, 57 (2002) (noting that in Tanzania and some other African countries "some male teachers sexually harass students, and a girl's refusal to have sex can lead to public humiliation, unfairly low marks, exclusion from class or corporal punishment"); Mary L. Plummer et al., *Are Schools a Good Setting for Adolescent Sexual Health Promotion in Rural Africa? A Qualitative Assessment from Tanzania*, 22 Health Educ. Research 483, 494–495 (2007) ("If a girl refused sex, over the ensuing months the teacher sometimes made excuses to beat her, interspersed with attempts to seduce her whenever he could get her alone.").
- <sup>114</sup> Education Act No. 23 (2011) (Zambia) § 28.
- <sup>115</sup> Interview with girl student, age 16, grade 10, in Lusaka Province, Zambia (May 2012).
- <sup>116</sup> Interview with girl student, age 13, grade 9, in Lusaka Province, Zambia (May 2012).
- <sup>117</sup> Interview with girl student, age 22, grade 10, in Lusaka Province, Zambia (May 2012); interview with girl student, age 17, grade 11, in Lusaka Province, Zambia (May 2012); interview with girl student, age 16, grade 11, Lusaka Province, Zambia (May 2012); interview with girl student, age 16, grade 9, in Lusaka Province, Zambia (May 2012); interview with girl student, age 17, grade 11, in Lusaka Province, Zambia (May 2012).
- <sup>118</sup> Interview with teacher, in a peri-urban school, in Lusaka Province, Zambia, Nov. 24, 2011; WLSA Report, *supra* note 12, at 24-25.

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<sup>119</sup> Interview with girl student (1), age 17, grade 11, Lusaka Province, Zambia, May 2012; interview with girl student (2), age 17, grade 11, in Lusaka Province, Zambia (May 2012); interview with girl student (3), age 17, grade 11, in Lusaka Province, Zambia (May 2012); interview with girl student, age 16, grade 10, in Lusaka Province, Zambia, May 2012; interview with girl student, age 16, grade 11, in Lusaka Province, Zambia (May 2012); interview with girl student (1), age 15, grade 9, in Lusaka Province, Zambia (May 2012); interview with girl student (2), age 15, grade 9, in Lusaka Province, Zambia (May 2012); interview with girl student, age 16, grade 10, in Lusaka Province, Zambia (May 2012); interview with girl student, age 19, grade 12, in Lusaka Province, Zambia (May 2012).

<sup>120</sup> Interview with girl student, age 19, grade 12, in Lusaka Province, Zambia (May 2012).

<sup>121</sup> Interview with girl student, age 16, grade 10, in Lusaka Province, Zambia (May 2012) ("I don't allow boys to say such things [ie. to make sexual comments]. I just run away. If I stand there, maybe the boy will start touching me.").

<sup>122</sup> Interview with girl student age 14, grade 7, Lusaka Province, Zambia (May 2012); interview with girl student, age 22, grade 10, in Lusaka Province, Zambia (May 2012); interview with girl student, age 16, grade 9, in Lusaka Province, Zambia (May 2012); interview with girl student, grade 11, age 17, in Lusaka Province, Zambia (May 2012).

<sup>123</sup> Interview with girl student, age 14, grade 7, in Lusaka Province, Zambia (May 2012).

<sup>124</sup> Interview with girl student, age 14, grade 9, in Lusaka Province, Zambia (May 2012); interview with girl student, age 15, grade 9, Lusaka Province, Zambia (May 2012); interview with girl student, age 16, grade 9, in Lusaka Province, Zambia (May 2012); interview with girl student, age 14, grade 9, in Lusaka Province, Zambia (May 2012); interview with girl student, age 14, grade 10, in Lusaka Province, Zambia (May 2012); interview with girl student, age 20, grade 9, in Lusaka Province, Zambia (May 2012).

<sup>125</sup> Interview with girl student, age 17, grade 11, in Lusaka Province, Zambia (May 2012).

<sup>126</sup> Interview with girl student, age 14, grade 9, in Lusaka Province, Zambia (May 2012).

<sup>127</sup> Interview with girl student, age 17, grade 11, in Lusaka Province, Zambia (May 2012).

<sup>128</sup> Interview with girl student, age 17, in Southern Province, Zambia (July 2012).

<sup>129</sup> Interview with girl student, age 19, grade 12, in Southern Province, Zambia (July 2012).

<sup>130</sup> Special Rapporteur on VAW Report – Zambia Addendum, *supra* note 24, ¶ 34. *See also* FAWEZA, Impact Assessment of Safe Houses and Hostels, *supra* note 29, at 6 ("[G]irls are not only at risk [of violence] in the school grounds and in the classroom but also . . . on the journey to and from school.").

<sup>131</sup> Interview with girl student, age 17, grade 11, in Lusaka Province (May 2012).

<sup>132</sup> Interview with teacher, in a rural school, in Lusaka Province, Zambia (Nov. 23, 2011).

<sup>133</sup> Interview with girl student, age 16, grade 9, in Lusaka Province (May 2012).

<sup>134</sup> Interview with girl student, age 16, grade 10, in Lusaka Province (May 2012).

<sup>135</sup> *See id*; interview with girl student, age 17, grade 11, in Lusaka Province (May 2012); interview with girl, age 17, grade 12, in Lusaka Province (May 2012); interview with girl student, age 14, grade 9, in Lusaka Province (May 2012).

<sup>136</sup> Interview with girl student age 20, grade 9, in Lusaka Province (May 2012).

<sup>137</sup> Interview with girl student, age 22, grade 10, in Lusaka Province (May 2012).

<sup>138</sup> Special Rapporteur on VAW Report – Zambia Addendum, *supra* note 24, ¶ 34.

<sup>139</sup> Interview with teacher, in a peri-urban school, in Lusaka Province, Zambia (Nov. 24, 2011).

<sup>140</sup> Interview with girl student, age 16, grade 9, in Lusaka Province, Zambia (May 2012).

<sup>141</sup> WLSA Report, *supra* note 12, at 23-25.

<sup>142</sup> Zambia Ministry of Education, Report of the Workshop on Sexual and Gender-Based Violence: Teacher/School Environment Focus 5-6 (2011) [hereinafter Zambia Ministry of Education Workshop Report]; Special Rapporteur on VAW Report – Zambia Addendum, *supra* note 24, § 34; interview with Nwenya Chiti Mabuka, Programs Assistance Advocacy, and Edith Ng'oma, Programs Manager, FAWEZA, in Lusaka, Zambia (Nov. 22, 2011). In response to such incidents, the Forum for African Women Educationalists of Zambia (FAWEZA), a non-profit focused on girls' access to education, has begun to construct "safe" houses near schools, staffed with trained "matrons." Interview with Nwenya Chiti Mabuka, Programs Assistance Advocacy, and Edith Ng'oma, Programs Manager, FAWEZA, in Lusaka, Zambia (Nov. 22, 2011).

## Chapter 4: The Impact of Sexual Violence on Girls' Health and Education

<sup>143</sup> Interview with teacher (1) in rural school, in Lusaka Province, Zambia (Nov. 23, 2011); interview with teacher (2) in rural school, in Lusaka Province Zambia (Nov. 23, 2011); interview with teacher (3) in rural school in Lusaka Province, Zambia (Nov. 23, 2011).

<sup>144</sup> Zambia Ministry of Education Workshop Report, *supra* note 142, at 8; Zambia's Country Report, *supra* note 8, at 17.

<sup>145</sup> L. Heise, *A Global Overview of Gender-Based Violence*, 78 Int'l J. Gynecology and Obstetrics S5, S10 (2002).

- <sup>146</sup> Zambia's Country Report, *supra* note 8, at 17 (2011); Ruth L. Mbambi, A Children's Rights Crisis: Defilement in the Zambian Courts 7 (unpublished draft, 2010). One study estimated that approximately 1% of all children in Zambia experience "penetrative sexual abuse with an AIDS/HIV infected person." Kevin Lalor, *Child Sexual Abuse in Sub-Saharan Africa: A Literature Review*, 28 *Child Abuse & Neglect* 439, 454 (2004).
- <sup>147</sup> Zambia's Country Report, *supra* note 8, at 20-21.
- <sup>148</sup> Zambia Ministry of Education Workshop Report, *supra* note 142, at 14-16.
- <sup>149</sup> Interview with Nalcha Ziba, NGOCC, in Lusaka, Zambia (Nov. 21, 2011).
- <sup>150</sup> WHO VAH Report, *supra* note 8, at 164.
- <sup>151</sup> *Id.*
- <sup>152</sup> International Planned Parenthood Federation and the Forum on Marriage and the Rights of Women and Girls, Ending Child Marriage: A Guide for Global Policy Action 11 (2006), *available at* <http://www.unhcr.org/refworld/pdfid/48abd594c.pdf>.
- <sup>153</sup> Zambia's Country Report, *supra* note 8, at 19.
- <sup>154</sup> World Health Organization, *Adolescent Pregnancy*, at <http://www.who.int/mediacentre/factsheets/fs364/en/> (last visited June 21, 2012).
- <sup>155</sup> *Id.*
- <sup>156</sup> Termination of Pregnancy Act, 17 L. Rep. of Zambia Ch. 304 (1995). *But see* Penal Code Act of 1964, § 152 (criminalizing abortions that are not carried out on grounds specified in the Termination of Pregnancy Act).
- <sup>157</sup> Penal Code (Amendment) Act of 2005, § 152.
- <sup>158</sup> Ministry of Health, Government of the Republic of Zambia, Standards and Guidelines for reducing unsafe abortion morbidity and mortality in Zambia 10 (2009).
- <sup>159</sup> Termination of Pregnancy Act, §§ 3(1), 3(3).
- <sup>160</sup> Supplementary Information on Zambia Scheduled for Review During the 49<sup>th</sup> Session of the CEDAW Committee, in letter dated May 31, 2011 from the Center for Reproductive Rights 5 (May 31, 2011) (noting that there are only about 1.3 physicians for every 10,000 people in Zambia).
- <sup>161</sup> See Winny Koster-Oyekan, *Why Resort to Illegal Abortion in Zambia? Finding of a Community-Based Study in Western Province*, 46 *Soc. Sci. & Med.* 1303, 1303 (1998).
- <sup>162</sup> Interview with girl student, age 15, grade 9, in Lusaka Province, Zambia (May 2012).
- <sup>163</sup> World Health Organization, *Unsafe Abortion: Global and Regional Estimates of the Incidence of Unsafe Abortion and Associated Mortality in 2008* 1 (6th ed. 2011); Standards and Guidelines for Reducing Unsafe Abortion, *supra* note 163, at iv. In a study of illegal abortions in Zambia's Western Province, 57% of the 298 reported deaths from abortion were of schoolgirls. Koster-Oyekan, *supra* note 161, at 1306. One-third of schoolgirls attempted abortions on their own employing methods such as the use of chloroquine (53%), the consumption of herbal tea (42%), and the insertion of sticks (17%) or herbs (11%) into the vagina. *Id.*
- <sup>164</sup> U.N. Secretary-General Report on All Forms of Violence against Women, *supra* note 17, § 164.
- <sup>165</sup> *Id.* § 164.
- <sup>166</sup> *Id.* § 165.
- <sup>167</sup> *Id.* § 164.
- <sup>168</sup> Joseph H. Beitchman et al., *A Review of the Long -Term Effects of Child Sexual Abuse*, 16 *Child Abuse & Neglect* 101, 101 (1992).
- <sup>169</sup> Interview with girl student, age 16, grade 9, in Lusaka Province, Zambia (May 2012); interview with girl student, age 17, grade 11, in Lusaka Province, Zambia (May 2012); interview with girl student, age 18, grade 11, in Lusaka Province, Zambia (May 2012); interview with girl student, age 15, grade 9, in Lusaka Province, Zambia (May 2012); interview with girl student, age 16, grade 9, in Lusaka Province, Zambia (May 2012); interview with girl student, age 15, grade 9, in Lusaka Province, Zambia (May 2012); interview with girl student, age 12, grade 9, in Lusaka Province, Zambia (May 2012).
- <sup>170</sup> Interview with girl student, age 14, grade 9, in Lusaka Province, Zambia (May 2012).
- <sup>171</sup> Mbambi, A Children's Rights Crisis, *supra* note 146, at 6.
- <sup>172</sup> World Health Org. Secretariat, *Early Marriages, Adolescent and Young Pregnancies: Report by the Secretariat*, ¶ 13, U.N. Doc. A65/13, Mar. 16, 2002, *available at* [http://apps.who.int/gb/ebwha/pdf\\_files/WHA65/A65\\_13-en.pdf](http://apps.who.int/gb/ebwha/pdf_files/WHA65/A65_13-en.pdf). *See also* The World Bank, *World Development Report 2012: Gender Equality and Development* (2012) (emphasizing the importance of girls' education to a nation's development).
- <sup>173</sup> U.N. Secretary-General World Report, *supra* note 16, at 130.
- <sup>174</sup> Joseph H. Beitchman et al., *A Review of the Short-Term Effects of Child Sexual Abuse*, 15 *Child Abuse & Neglect* 537, 543 (1991). *See also* Liz Tong et al., *Personality Development Following Sexual Abuse*, 11 *Child Abuse & Neglect* 371, 371, 375 (1987) (finding that 30% of sexually abused students experienced a decline in academic performance).



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immediately after the abuse and 17% continued to experience that decline over a longer time period); Joseph M. Chandy et al., *Female Adolescents With a History of Sexual Abuse: Risk Outcome and Protective Factors*, 11 J. Interpersonal Violence 503, 510 (1996) (finding that sexually abused female adolescents had lower grade point averages and poorer academic performances than their peers).

<sup>175</sup> Interview with girl student, age 15, grade 10, in Lusaka Province, Zambia (May 2012); interview with girl student, age 14, grade 9, in Lusaka Province, Zambia (May 2012); interview with girl student, age 17, grade 9, in Lusaka Province, Zambia (May 2012); interview with girl student, age 13, grade 9, Lusaka Province, Zambia (May 2012); interview with girl, age 19, grade 12, in Lusaka Province, Zambia (May 2012); interview with girl student, age 17, grade 11, in Lusaka Province, Zambia (May 2012); interview with girl student, age 16, grade 10, in Lusaka Province, Zambia (May 2012); interview with girl student, age 15, grade 9 (May 2012); interview with girl student, age 14, grade 9 (May 2012).

<sup>176</sup> Interview with girl student, age 19, grade 12, in Lusaka Province, Zambia (May 2012).

<sup>177</sup> Interview with girl student, age 17, grade 11, in Lusaka Province, Zambia (May 2012).

<sup>178</sup> Interview with girl student, age 14, grade 9, in Lusaka Province, Zambia (May 2012); interview with girl student, age 18, grade 9, in Lusaka Province, Zambia (May 2012); interview with girl student, age 14, grade 9, in Lusaka Province, Zambia (May 2012); interview with girl student, age 22, grade 10, in Lusaka Province, Zambia (May 2012).

<sup>179</sup> Interview with girl student, age 13, grade 9, in Lusaka Province, Zambia (May 2012).

<sup>180</sup> Interview with girl student, age 16, grade 10, in Lusaka Province, Zambia (May 2012).

<sup>181</sup> Interview with girl student, age 13, grade 9, in Lusaka Province, Zambia (May 2012).

<sup>182</sup> Interview with girl student, age 17, grade 11, in Lusaka Province (May 2012).

<sup>183</sup> Interview with girl student, age 17, grade 10, in Lusaka Province (May 2012).

<sup>184</sup> See Human Rights Watch, *Scared at School: Sexual Violence Against Girls in South African Schools* (2001) ("Many victims of sexual violence at school miss some school trying to cope with what has happened to them and find they cannot catch up with their coursework."); Chandy et al., *supra* note 174, at 510 (finding that female adolescents with a history of sexual abuse were more likely to dislike school and skip classes).

<sup>185</sup> Zambia Ministry of Education Workshop Report, *supra* note 142, at 23.

<sup>186</sup> Interview with headmaster, in an urban school, in Lusaka Province, Zambia (Nov. 22, 2011).

<sup>187</sup> Mairead Dunne et al., UNESCO, *Gender and violence in schools* (2003), U.N. Doc. 2004/ED/EFA/MRT/PI/19.

<sup>188</sup> Joseph Sampa Kalungu, UNICEF, 2010 Zambia: Evaluation of Sensitisation of Traditional Leaders on the Importance of Girls' Education 6-7 (2010).

<sup>189</sup> See Zambia Ministry of Education Workshop Report, *supra* note 142, at 4.

<sup>190</sup> Chief Editor, *Over 12,000 school girls who fell pregnant were re-admitted under the school re-entry policy*, LUSAKA TIMES, Sept. 25, 2012; Zambia Ministry of Education, Directorate of Planning and Information, Educational Statistical Bulletin Tbl. 43 (2009).

<sup>191</sup> WLSA Report, *supra* note 12, at 28.

<sup>192</sup> Interview with girl student, age 17, grade 11, in Lusaka Province, Zambia (May 2012).

<sup>193</sup> WLSA Report, *supra* note 12, at 28; interview with Barbara Chilangwa, Executive Director, CAMFED, in Lusaka, Zambia (Nov. 21, 2011); interview with guidance teacher, in an urban school in Zambia (Nov. 25, 2011); interview with Christopher Mvula, headmaster of an urban school in Lusaka, Zambia (Nov. 22, 2011).

<sup>194</sup> Interview with girl student, age 13, grade 8, in Lusaka Province, Zambia (May 2012).

<sup>195</sup> Interview with Christopher Mvula, headmaster of an urban high school, in Lusaka, Zambia (Nov. 22, 2011).

<sup>196</sup> Interview with girl student, in Lusaka Province, Zambia (May 2012). See also interview with Barbara Chilangwa, Executive Director, CAMFED, in Lusaka, Zambia (Nov. 21, 2011).

<sup>197</sup> Kalungu, *supra* note 188, at 6; interview with girl student, age 16, grade 9, in Lusaka Province, Zambia (May 2012) (noting that "pressure to marry instead of going to school is common").

<sup>198</sup> Zambia's Country Report, *supra* note 8, at 16; The Campaign for Female Education (CAMFED), A Power-Sharing Model for Systemic Change: Key Findings and Highlights 3 (2010) [hereinafter CAMFED Key Findings and Highlights]. Women marry, on average, two years earlier in rural areas. *Id.*

<sup>199</sup> Zambia Ministry of Education Workshop Report, *supra* note 142, at 21.

<sup>200</sup> Fiona Leach et al., Department for International Development, Preliminary Investigation of the Abuse of Girls in Zimbabwean Junior Secondary Schools § 3.3 (2000).

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## Chapter 5: Barriers to Reporting and Obtaining Redress for Sexual Violence in School

<sup>201</sup> See Zambia Ministry of Education Workshop Report, *supra* note 142, at 9.

<sup>202</sup> See, e.g., Interview with District Education Board officials, in Lusaka, Zambia (May 11, 2012) (noting that schools have no formal policy on sexual violence or harassment but are free to make their own policies).

<sup>203</sup> Interview with Andrew Ngwenya, Guidance and Counseling Coordinator, DEBS, in Lusaka, Zambia (Nov. 22, 2011); interview with Songelo Mkandawirem-wiinga, Human Resource Management Officer, DEBS, in Kafue, Zambia (Nov. 23, 2011). See also Sichikwenkwe, *supra* note 4, at 42.

<sup>204</sup> Interview with girl, age 20, grade 9, in Lusaka Province, Zambia (May 2012); interview with girl, age 17, grade 9, in Lusaka Province, Zambia (May 2012).

<sup>205</sup> WLSA Report, *supra* note 12, at 25.

<sup>206</sup> Interview with girl, age 17, grade 11, in Lusaka Province, Zambia (May 2012).

<sup>207</sup> Interview with girl, age 15, grade 11, in Lusaka Province, Zambia (May 2012).

<sup>208</sup> Interview with girl student, age 16, grade 10, in Lusaka Province, Zambia (May 2012).

<sup>209</sup> Interview with girl, age 14, grade 10, in Lusaka Province, Zambia (May 2012); interview with girl, age 22, grade 20, in Lusaka Province, Zambia (May 2012); interview with girl, age 17, grade 11, in Lusaka Province, Zambia (May 2012); interview with girl, age 16, grade 11, in Lusaka Province, Zambia (May 2012).

<sup>210</sup> See, e.g., interview with girl, age 17, grade 11, in Lusaka Province, Zambia (May 2012); See also interview with girl, age 16, grade 11, in Lusaka Province, Zambia (May 2012); interview with girl 2, age 16, grade 11, in Lusaka Province, Zambia (May 2012).

<sup>211</sup> Interview with girl, age 18, grade 11, in Lusaka Province, Zambia (May 2012).

<sup>212</sup> Interview with girl student, age 22, grade 10, in Lusaka Province, Zambia (May 2012); interview with girl student, age 15, grade 9, in Lusaka Province, Zambia (May 2012).

<sup>213</sup> Interview with girl student, age 17, grade 11, in Lusaka Province, Zambia (May 2012). See also Interview with girl, age 19, grade 12, in Lusaka Province, Zambia (May 2012) (“Boys touch and grab girls at this school. You have to avoid them and run away. They try to touch the girls, try to sleep with them. If you’re a girl, when this happens, you just run away.”).

<sup>214</sup> Interview with girl student, age 22, grade 10, in Lusaka Province, Zambia (May 2012); interview with girl student, age 17, grade 11, in Lusaka Province, Zambia (May 2012); interview with girl student, age 16, grade 10, in Lusaka, Zambia (May 2012).

<sup>215</sup> Interview with Brenda Mwiinga, Coordinator of Youth Activities and Child Crisis, YWCA, Lusaka, Zambia (May 25, 2012). In cases involving intimate-partner rape, moreover, girls often do not report because they fear getting their boyfriend in trouble, or even arrested. Interview with girl student, age 15, grade 9, in Lusaka Province, Zambia (May 2012).

<sup>216</sup> Interview with girl student, age 17, grade 11, in Lusaka Province, Zambia (May 2012); interview with girl, age 16, grade 11, in Lusaka Province, Zambia (May 2012).

<sup>217</sup> Interview with girl student, age 22, grade 10, in Lusaka Province, Zambia (May 2012).

<sup>218</sup> Interview with guidance teacher, in an urban school, in Lusaka Province, Zambia (Nov. 25, 2011).

<sup>219</sup> Interview with Mchimunya Simaubi, Magistrate, in Kafue, Zambia (Nov. 23, 2011).

<sup>220</sup> Interview with guidance teacher in an urban school, in Lusaka Province, Zambia (Nov. 22, 2011).

<sup>221</sup> Interview with girl student, age 16, grade 11 in Lusaka Province, Zambia (May 2012).

<sup>222</sup> Interview with girl student, age 17, grade 11, in Lusaka Province, Zambia (May 2012).

<sup>223</sup> Interview with Barbara Chilangwa, Executive Director, CAMFED, in Lusaka, Zambia (Nov. 21, 2011).

<sup>224</sup> Interview with guidance teacher in an urban school, in Lusaka Province, Zambia (Nov. 22, 2011).

<sup>225</sup> Interview with girl student, age 16, grade 10, in Lusaka Province, Zambia (May 2012).

<sup>226</sup> Interview with girl student, age 16, grade 10, in Lusaka Province, Zambia (May 2012).

<sup>227</sup> Interview with girl student, age 22, grade 10, in Lusaka Province, Zambia (May 2012).

<sup>228</sup> Interview with girl student, age 17, grade 9, in Lusaka Province, Zambia (May 2012).

<sup>229</sup> Interview with girl student, age 16, grade 11, in Lusaka Province, Zambia (May 2012).

<sup>230</sup> Interview with Brenda Mwiinga, Coordinator of Youth Activities and Child Crisis, YWCA, Lusaka, Zambia (May 25, 2012).

<sup>231</sup> Interview with girl student, age 14, grade 9, in Lusaka Province, Zambia (May 2012); Interview with girl student, age 17, grade 9, in Lusaka Province, Zambia (May 2012).

<sup>232</sup> Interview with teacher in a peri-urban school, in Lusaka Province, Zambia (Nov. 24, 2011).

<sup>233</sup> Interview with teacher in a rural school in Zambia, in Lusaka Province, Zambia (Nov. 23, 2011).

<sup>234</sup> R.M. v. Edward Hakasenke, Zambia, High Court, 2006.



<sup>235</sup> Interview with guidance teacher, in an urban school, in Lusaka Province, Zambia (Nov. 22, 2011).

<sup>236</sup> See, e.g., interview with Ruth Mbambi, Lusaka Magistrate, in Lusaka, Zambia (Nov. 24, 2011); interview with Mchimunya Simaubi, Magistrate, in Kafue, Zambia (Nov. 23, 2011); interview with headmaster, in an urban school, in Lusaka Province, Zambia (Nov. 22, 2011); interview with teacher, in a rural school, in Lusaka Province, Zambia (Nov. 23, 2011).

<sup>237</sup> Interview with Andrew Ngwenya, Guidance and Counseling Coordinator, DEBS, in Lusaka, Zambia (Nov. 22, 2011).

<sup>238</sup> Interview with girl, age 16, grade 9, in Lusaka Province, Zambia (May 2012).

<sup>239</sup> Interview with girl, age 18, grade 9, in Lusaka Province, Zambia (May 2012) (reporting that a teacher who got a girl pregnant was transferred to another school); interview with girl, age 16, grade 11, in Lusaka Province, Zambia (May 2012) (noting that at her previous, basic school, a ninth-grade girl who was made pregnant by a teacher was expelled while the teacher was merely transferred). Although most administrators we spoke with did not report such an occurrence within their own schools, most noted that this was a common practice in other schools.

<sup>240</sup> Interview with teacher, in a rural basic school, in Kafue, Zambia (Nov. 23, 2011).

<sup>241</sup> Interview with guidance teacher, in an urban school, in Lusaka Province, Zambia (Nov. 22, 2011). Mr. Andrew Ngwenya, a DEBS worker in Lusaka, stated that he has personally found dismissed teachers working at private schools. Interview with Andrew Ngwenya, Guidance and Counseling Coordinator, DEBS, in Lusaka, Zambia (Nov. 22, 2011).

<sup>242</sup> Interview with girl, age 15, grade 9, in Lusaka Province, Zambia (May 2012).

<sup>243</sup> Interview with girl, age 14, grade 9, in Lusaka Province, Zambia (May 2012).

<sup>244</sup> Interview with girl, age 17, grade 11, in Lusaka Province, Zambia (May 2012).

<sup>245</sup> John Gillies, Equip2, *The Power of Persistence: Education System Reform and Aid Effectiveness: Case Studies in Long-Term Education Reform* 5, (2010). See also Embassy of the Netherlands in Zambia, *Primary Education in Zambia* 31 (2008). Today, “schools and zones increasingly look to DEBS (as opposed to the central ministry or division offices) to address problems, planning, and capacity needs.” Gillies, *supra*, at 119.

<sup>246</sup> Interview with Andrew Ngwenya, Guidance and Counseling Coordinator, DEBS, in Lusaka, Zambia (Nov. 22, 2011); interview with Songelo Mkandawirem-wiinga, Human Resource Management Officer, DEBS, in Kafue, Zambia (Nov. 23, 2011). According to Ms. Mkandawirem-wiinga, the PTA usually meets and raises any reports of sexual violence to DEBS. *Id.* She further noted that “sometimes we do communicate with the student, we have our own disciplinary measures, and sometimes [we] ask students to verify. We do the same with teachers.” *Id.* It was unclear from her interview whether, how, and to what extent DEBS conducts its own interviews.

<sup>247</sup> Interview with Andrew Ngwenya, Guidance and Counseling Coordinator, DEBS, in Lusaka, Zambia (Nov. 22, 2011).

<sup>248</sup> *Id.*; interview with Songelo Mkandawirem-wiinga, Human Resource Management Officer, DEBS, in Kafue, Zambia (Nov. 23, 2011).

<sup>249</sup> Interview with Andrew Ngwenya, Guidance and Counseling Coordinator, DEBS, in Lusaka, Zambia (Nov. 22, 2011); interview with District Education Board officials, in Lusaka, Zambia (May 11, 2012).

<sup>250</sup> Interview with District Education Board officials, in Lusaka, Zambia (May 11, 2012).

<sup>251</sup> Interview with Songelo Mkandawirem-wiinga, Human Resource Management Officer, District Education Board Secretary Kafue, in Kafue, Zambia (Nov. 23, 2011).

<sup>252</sup> *Id.* If evidence consists of a student’s word against a teacher’s, it is more likely that DEBS will transfer rather than dismiss a teacher. *Id.*

<sup>253</sup> *Id.*

<sup>254</sup> Interview with headmaster, in an urban school, in Lusaka Province, Zambia (Nov. 22, 2011).

<sup>255</sup> Interview with Nalcha Ziba, NGOCC, in Lusaka, Zambia (Nov. 21, 2011).

<sup>256</sup> Zambia Police Act No. 14 of 1999, sec. 53, 8 L. Rep. of Zambia Ch. 107 (1999). See Zambia Police Service, Victim Support Unit, [http://www.zambiapolice.gov.zm/index.php?option=com\\_content&task=view&id=23&Itemid=37](http://www.zambiapolice.gov.zm/index.php?option=com_content&task=view&id=23&Itemid=37) (last visited Aug. 16, 2012); U.N. Secretary General’s Database on Violence against Women, Victim Support Unit of the Police Service: Zambia (last updated Sept. 1, 2009) (last visited Aug. 16, 2012).

<sup>257</sup> Interview with Tresford Kasale, National Coordinator, VSU, in Lusaka, Zambia (Nov. 21, 2011).

<sup>258</sup> *Id.*; interview with Ms. Nyumbu, Chief Inspector, VSU, in Kafue, Zambia (Nov. 23, 2011).

<sup>259</sup> Interview with Tresford Kasale, National Coordinator, VSU, in Lusaka, Zambia (Nov. 21, 2011).

<sup>260</sup> Interview with Ms. Nyumbu, Chief Inspector, VSU, in Kafue, Zambia, Nov. 23, 2011.

<sup>261</sup> Interview with Betty Malupenga, Magistrate, in Kafue, Zambia (Nov. 23, 2011); interview with Ms. Nyumbu, Chief Inspector, Victim Support Unit Kafue, in Kafue, Lusaka (Nov. 23, 2011).

<sup>262</sup> A VSU at the police station in Kafue, for example, is one of only two in a district of approximately 150,000 people. Interview with Ms. Nyumbu, Chief Inspector, VSU, in Kafue, Zambia (Nov. 23, 2011); See also Zambia Ministry of

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Education Workshop Report, *supra* note 142, at 23 (reporting that “[i]n some cases the vices are committed very far away from law enforcement authority and victims find it costly [to] obtain transportation to the police station or post”).

<sup>263</sup> Interview with Tresford Kasale, National Coordinator, VSU, in Lusaka, Zambia (Nov. 21, 2011); interview with Ms. Nyumbu, Chief Inspector, VSU, in Kafue, Zambia (Nov. 23, 2011).

<sup>264</sup> Interview with Ms. Nyumbu, Chief Inspector, VSU, in Kafue, Zambia (Nov. 23, 2011).

<sup>265</sup> At other times, VSU officers use their own limited funds to provide transportation. *Id.*

<sup>266</sup> *Id.*

<sup>267</sup> Interview with Ms. Nyumbu, Chief Inspector, VSU, in Kafue, Zambia (Nov. 23, 2011).

<sup>268</sup> Interview with teacher, in a rural school in Zambia, Lusaka Province, Zambia (Nov. 23, 2011).

<sup>269</sup> Interview with Miriam Chonya Chinyama, Executive Director, ZANEC, in Lusaka, Zambia (Nov. 21, 2011).

<sup>270</sup> Interview with girl student, age 15, grade 9, in Lusaka Province, Zambia (May 2012); interview with girl student, age 14, grade 8, in Lusaka Province, Zambia (May 2012); interview with girl student, age 14, grade 9, in Lusaka Province, Zambia (May 2012).

<sup>271</sup> Special Rapporteur on VAW Report – Zambia Addendum, *supra* note 24, ¶ 67.

<sup>272</sup> Zambia Const. Part VI § 91. The Supreme Court is Zambia’s highest court and its court of last resort. *Id.* § 92. The High Court has original jurisdiction in all cases except those committed to the Industrial Relations Court. *Id.* § 94. Local courts have limited jurisdiction and apply African customary law. Republic of Zambia Judiciary, Local Courts, <http://www.judiciary.gov.zm/index.php/court-structure/local-courts> (last visited August 31, 2012).

<sup>273</sup> Subordinate Courts Act of 1998, Part II § 3, 3 L. Rep. of Zambia Ch. 28 (1996). Magistrates courts are divided into three classes, with different sentencing powers according to their class. Republic of Zambia Judiciary, Subordinate Courts, <http://www.judiciary.gov.zm/index.php/court-structure/subordinate-courts> (last visited August 31, 2012).

<sup>274</sup> Interview with Ruth Mbambi, Lusaka Magistrate, in Lusaka, Zambia (Nov. 24, 2011). Magistrate Mbambi noted that magistrate facilities do not provide Internet access, and their library resources are dated. Meanwhile, magistrates rarely learn of more recent cases decided by the High Court and Supreme Court and often do not receive copies of relevant new legislation, such as the Anti-Gender-Based Violence Act. *Id.*

<sup>275</sup> Interview with Mchimunya Simaubi, Magistrate, in Kafue, Zambia (Nov. 23, 2011).

<sup>276</sup> Phone interview with Justice Philip Musonda, Zambia Supreme Court Justice and Former High Court Judge who presided over the R.M. case, in Lusaka, Zambia (May 14, 2012); interview with Mrs. Arida Chulu, Senior Resident Magistrate, in Lusaka, Zambia (May 16, 2012); interview with Amanda Bissex, Chief of Child Protection, UNICEF, in Lusaka, Zambia (May 17, 2012).

<sup>277</sup> Interview with Amanda Bissex, Chief of Child Protection, UNICEF, in Lusaka, Zambia (May 17, 2012).

<sup>278</sup> Interview with Mchimunya Simaubi, Magistrate, in Kafue, Zambia (Nov. 23, 2011); interview with Amanda Bissex, Chief of Child Protection, UNICEF, in Lusaka, Zambia (May 17, 2012).

<sup>279</sup> Interview with Mchimunya Simaubi, Magistrate, in Kafue, Zambia (Nov. 23, 2011).

<sup>280</sup> *Id.*

<sup>281</sup> See Penal Code Act of 1964, § 140-141.

<sup>282</sup> See interview with Amanda Bissex, Chief of Child Protection, UNICEF, in Lusaka, Zambia (May 17, 2012); Human Rights Watch, *Suffering in Silence: The Links Between Human Rights Abuses and HIV Transmission to Girls in Zambia* 60 (2002). Furthermore, Zambians are reluctant to testify and associate themselves with courts out of fear of being arrested. Interview with Brenda Mwiinga, Youth Coordinator, YWCA, in Lusaka, Zambia (May 25, 2012).

<sup>283</sup> Interview with Mrs. Arida Chulu, Senior Resident Magistrate, in Lusaka, Zambia (May 16, 2012).

<sup>284</sup> Zambia Ministry of Education Workshop Report, *supra* note 142, at 21.

<sup>285</sup> Interview with Andrew Ngwenya, Guidance and Counseling Coordinator, DEBS, in Lusaka, Zambia (Nov. 22, 2011); interview with Mchimunya Simaubi, Magistrate, in Kafue, Zambia (Nov. 23, 2011); interview with Miriam Chonya Chinyama, Executive Director, ZANEC, in Lusaka, Zambia (Nov. 21, 2011).

<sup>286</sup> Interview with Mchimunya Simaubi, Magistrate, in Kafue, Zambia (Nov. 23, 2011);

<sup>287</sup> Interview with Kelvin Bwalya, Advocate and Lawyer for R.M. in *R.M. v. Hakasenke*, High Court, 2006, in Lusaka, Zambia (Nov. 25, 2012).

<sup>288</sup> Criminal Procedure Code Act, Part. II, § 8.

<sup>289</sup> See Special Rapporteur on VAW Report – Zambia Addendum, *supra* note 24, ¶ 68.

<sup>290</sup> See *id.*

<sup>291</sup> Criminal Procedure Code § 123; see Special Rapporteur on VAW Report – Zambia Addendum, *supra* note 24, ¶ 68.

<sup>292</sup> Anti-Gender-Based Violence Act, Pt. III.

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## Chapter 6: Zambian Government Initiatives

<sup>293</sup> Interview with teacher in a rural school, in Lusaka Province, Zambia (Nov. 23, 2011); Lilian Museka, *Zambia: Child Sexual Abuse on the Rise*, News from Africa, November 11, 2010.

<sup>294</sup> Interview with girl student, age 16, grade 9, in Lusaka Province, Zambia (May 2012).

<sup>295</sup> Interview with Nwenya Chiti Mabuka, Programs Assistance Advocacy, and Edith Ng'oma, Programs Manager, FAWEZA, in Lusaka, Zambia (Nov. 22, 2011); interview with Brenda Mwiinga, Coordinator of Youth Activities and Child Crisis, YWCA, Lusaka, Zambia (May 25, 2012); Alison Davidson & Deogratious Chileshe, Safe Spaces Programme in Zambia, Presentation to the African SVGBV Partners' Meeting, February 8-10, 2011.

<sup>296</sup> Several of the girls we interviewed spoke enthusiastically about the Girls Network. Interview with girl student, age 15, grade 5, in Lusaka Province, Zambia (May 2012); interview with girl student, age 14, grade 9, in Lusaka Province, Zambia (May 2012); interview with girl student, age 16, grade 9, in Lusaka Province, Zambia (May 2012). See Monisha Bajaj and Meera Parthmarajah, *Engendering Agency: The Differentiated Impact of Educational Initiatives in Zambia and India*, 23 Feminist Formations 48, 63-64 (2011).

<sup>297</sup> See *supra* notes 78-85 and accompanying text.

<sup>298</sup> Education Act No. 23 (2011) (Zambia) § 32(1)-(2).

<sup>299</sup> Ministry of Education, Science, and Vocational Training, Draft National Child Protection Policy for Schools (Jan. 6, 2002). Unlike most Zambian laws, the draft policy adopts the international law definition of a child, as someone under the age of 18.

<sup>300</sup> *Id.* at 20.

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