

## **In the Battle Ground: HIV/AIDS and the Human Rights of Women in Zambia<sup>1</sup>**

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*Article 25*

*“(1) Everyone has the right to a standard of living adequate for the health and well-being of himself [herself] and of his [her] family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.  
(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.”  
Universal Declaration of Human Rights*

What is the relationship between human rights principles, gender inequality, and HIV/AIDS epidemic in Zambia where about 20 percent<sup>2</sup> of the country's population is HIV positive and women are up to six times more vulnerable to the infection? How does the epidemic relate to violations of human rights? How do poverty, rape, violence, and profound disrespect for women's rights worsen the gap between human rights principles and practices in Zambia?

Zambia is one of the countries in sub-Saharan Africa that is most affected by the AIDS pandemic, with a high percentage of women contaminated by the virus. As the Amnesty International report “Women, HIV/AIDS and Human Rights”<sup>3</sup> emphasizes, women face several circumstances that make them more vulnerable to HIV infection in gender specific ways. Living in a patriarchal society, Zambian women are in constant risk of sexual assault and other gender-related violence. Poverty, discrimination, and customary law, between other

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<sup>1</sup> The author would like to thank Professors Carlos Parodi and Ali Riaz for their valuable comments.

<sup>2</sup> Some statistics estimate up to 30 percent of infected population. See Rita Abrahamsen. 1997 “Gender dimensions of AIDS in Zambia.” *Journal of Gender Studies* v 6(2): 177-189.

<sup>3</sup> See Amnesty International. 2004. “Women, HIV/AIDS and Human Rights” available at <http://web.amnesty.org/library/Index/ENGACT770842004> (Retrieved on December 7, 2006).

factors, contribute to a rate of HIV/AIDS infection up to six times more to women and girls than to men, especially among young women aged 15 to 19 years old.<sup>4</sup> Recent statistics showed 18 percent rate of contamination between women with the virus as opposed to 13 percent in men.<sup>5</sup> “There is a direct correlation between women's low status, the violation of their human rights and HIV transmission. The reason that AIDS has escalated into a pandemic is because inequality between women and men continues to be pervasive and persistent”, says the executive director of UNIFEM Noeleen Heyzer.<sup>6</sup> “It is time for the AIDS community to join hands with the international women's community to hold governments accountable,” he emphasizes.

It is important to note that, as Pietrzyk argues, this is not a discussion *about* gender. It is about “the gendered ways in which structures and systems position individuals as vulnerable as well as a discussion of how AIDS intensifies vulnerabilities in gendered ways.” In this context, the author emphasizes that it is essential to investigate the gendered barriers that prevent women from having access “to knowledge and opportunities such as sexual health information, control of one’s body, deciding the terms of sex, employment, financial autonomy, and formal education” (Pietrzyk 2005).

According to data from the World Health Organization (WHO)<sup>7</sup> the form of transmission more prevalent in Zambia is predominantly heterosexual, with an also significant percentage of mother-to-child transmission. The same data also show that AIDS cases hit the highest level among women between 20 and 29

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<sup>4</sup> World Health Organization (WHO) 2005. Zambia Country Profile. UNAIDS, UNFPA, UNIFEM. 2004. “Women and HIV: Confronting the Crisis.” <<http://www.unfpa.org/hiv/women/report/index.htm>> (Retrieved on October 7, 2006).

<sup>5</sup> UNAIDS, UNFPA, UNIFEM. 2004. “Women and HIV: Confronting the Crisis.” <<http://www.unfpa.org/hiv/women/report/index.htm>> (Retrieved on October 7, 2006).

<sup>6</sup> Quoted in Human Rights Watch. 2003. “Policy Paralysis: A Call for Action on HIV/AIDS-Related Human Rights Abuses Against Women and Girls in Africa.” Available at <<http://www.hrw.org/reports/2003/africa1203/index.htm>> (Retrieved on December 7, 2006).

<sup>7</sup> See World Health Organization (WHO.) 2005. Zambia Country Profile. Available at <[http://www.who.int/hiv/HIVCP\\_ZMB.pdf](http://www.who.int/hiv/HIVCP_ZMB.pdf)> (Retrieved on December 8, 2006).

years old and among men between 30 and 39 years old, which possibly means significant transmission from older men to younger women (WHO 2005: 1). The HIV infection is significantly higher much higher among the urban population (25 to 35 percent) than the rural population (8 to 16 percent). The epidemic is estimated to have left at least 600,000 children orphaned.

Many women in Zambia face sexual violence and coerced sex – inside and outside the marriage – and are also vulnerable to traditional practices that involve physical harm, as well as those which produce socio-economic inequality, such as those related to wife inheritance and early marriage. Still according to Amnesty International, many women frequently do not have either access to information on HIV prevention measures or access to health care after infection. The lives of women are not necessarily secured by the government, and even if they are secured by law, the customary law and the traditions are often stronger, especially regarding inheritance, sexual/reproductive rights, health, and the access to education.

In this context, harmful traditional practices, prejudice, economic, social, and political interests have excluded women from the established paradigms of human rights and relegated them a “second-class citizens,” exposing them to constant threats, HIV/AIDS included. It is important to note that, as Mikell points out, traditional culture has ‘dual-sex’ patterns and gendered relationships but they were certainly exacerbated by colonial, Western, and hegemonic contacts. “Since culture is not static, new concatenations of the asymmetry and inequality have arisen that politicians and laypersons alike sometimes present as customary, when in fact, they are distortions of African reality” (Mikell 1997: 3).

The dichotomy between public and private spheres also contributes to keep women away from being part of the public spaces and enjoying benefits regarded as human rights. Often, people do not believe that this is a case of public interest. This way, violence against women remains invisible (Pickup 2001). Additionally, women are usually families’ “shock absorbers” (Gasper and Truong 2005). They care for the elderly and the sick, enter informal market when the family needs it, they are pressurized in times of change to embody traditions, and they give others some security and comfort. Their own security and well-being are often in jeopardy, unconsidered, and relegated. “Shock absorbers are noticed only when broken” (2005: 2).

In this paper, I will make an assessment of the status of human rights in Zambia, having as the departing point the respect for the human rights of women in the context of women’s structural vulnerability to HIV/AIDS. To analyze Zambian political, economic, and social challenges associated with the implementation of human rights within a gender perspective, I will use the Office of the High Commission of Human Rights (OHCHR) Plan of Action. The

document defines six major human rights challenges – which are strictly interrelated - on which attention should be focused: poverty, discrimination, violence and armed conflict, impunity, lack of democracy, and weak institutions. Besides that, the document also highlights implementation challenges, which appear as impediments to the protection of human rights (OHCHR 2005: 7). The HIV/AIDS epidemic in Zambia and its attack on women is closely related to both types of challenges, as the disproportionate rates of infection by the virus is a cause of women's rights violations and, at the same time, prompts more violations.

Even though I decided to use OHCHR's methodology, it is important to note I do not necessarily agree with their premise that “basic human rights principles enjoy universal agreement” (2005: 7). Major cultural factors within the national context I am attempting to analyze exemplify that human rights are not necessarily understood as universal – or extended to everybody - even though declarations, conventions, and treaties have been signed and theoretically agreed upon.

## **Zambia context: Human Rights Challenges**

### **Poverty**

Zambia has a population of over ten million people.<sup>8</sup> The country's average life expectancy is around 35 years and its GDP per capita is only U\$800.<sup>9</sup> Zambia ranked 165<sup>th</sup> out of the 177 countries on the Human Development Index with 0.407, in 2006.<sup>10</sup> The same data show that extreme poverty is much higher in rural (71 percent) than in urban areas (36 percent), with women being the majority of the poor. More than 55 percent of children over seven years of age are not enrolled in school. Far more girls than boys are out of school.<sup>11</sup> A research found that for

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<sup>8</sup> CIA World Factbook.

<<https://www.cia.gov/cia/publications/factbook/geos/za.html>> (Retrieved on October 7, 2006).

<sup>9</sup> CIA World Factbook.

<sup>10</sup> The Human Development Index (HDI) is a measure of life expectancy, literacy, education, and standard of living for countries worldwide. It ranges from 0 to 1. United Nations Development Program (UNDP). <http://hdr.undp.org/hdr2006/statistics/> (Retrieved on April 30, 2007).

<sup>11</sup> Human Rights Watch. 2002. “Suffering in Silence.”

every man living in Lusaka, there were 12 poor women, and that most of these women were working in low paying, low-skilled jobs with little job security.<sup>12</sup> HIV/AIDS epidemic has severely worsened poverty rates, just as much poverty has contributed to aggravate the HIV situation.

The majority of Zambians are subsistence farmers, but the country also fairly urbanized, with 42 percent of the population being city residents. In the agricultural context, women are responsible for the biggest part of the food production. They are in charge for growing crops and harvesting them as well as for the household work and for the kids. They are also the ones who walk long distances to fetch water in the wells and collect firewood being, in these circumstances, even more vulnerable to sexual assault.

As Adetoun Ilumoka (1994) notes, since the 1980s, the debt crisis and the imposition of Structural Adjustment Programs (SAPs) by the World Bank and the IMF contributed to the impoverishment of the country even more. The SAPs, according to Ilumoka, have added to the already existent disadvantage of women's conditions of labor. "Employment opportunities have been restricted, access to education rendered more difficult, and to the double burden of work they bear as household managers has been added an increasing role as providers of social security including health care for the sick and the elderly" (1994: 318). Along these lines, Saskia Sassen (2000) emphasizes that the process of feminization of poverty - in which whole communities are progressively more dependent on women for their survival - increased with the SAPs and made more women subjected to human trafficking and prostitution. In Zambia, prostitution is illegal, and police frequently arrested street sex workers, often assaulting them. According to Zambia Sexual Behavior Survey 2003,<sup>13</sup> 19 percent of women and 29 percent of men have taken part in commercial sex. Data estimates that in Zambia around two-thirds of sex workers are HIV positive.<sup>14</sup>

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<sup>12</sup> World Organization Against Torture OMCT2002. "Report on Violence against Women 2002."

<sup>13</sup> Zambia Sexual Behavior Survey. 2003. Quoted in USAID at <http://www.usaid.gov/zm/hiv/successhiv.htm> (Retrieved on December 8, 2006).

<sup>14</sup> UNAIDS/WHO. Epidemiological Fact Sheet. 2004 Update. Zambia. Available at [http://data.unaids.org/Publications/Fact-Sheets01/zambia\\_EN.pdf](http://data.unaids.org/Publications/Fact-Sheets01/zambia_EN.pdf). (Retrieved on December 8, 2006).

Apart from sex workers, the practice of accepting money or gifts in return for sex occasionally is also common, not to speak of girls who are subjected to sex with stepfathers or uncles in order to have shelter. The testimony of this girl, collected by Human Rights Watch clearly demonstrates this problem:

After my mother died, I went to my mother's mother. In 2001, she died, so I stopped school... Then we went to my auntie, my mom's younger sister... Most girls find that they start keeping up with [*having sex with*] stepfathers or uncles. Most are raped. They have no say. They think if you bring them to the police, there will be no one to keep me. So they keep quiet (Patricia M., 16 years old).<sup>15</sup>

Within the same patriarchal system, women are often deprived of property and inheritance rights, employment and access to finance - constraints that make them more likely to depend on men, and unable to negotiate marriage arrangements and sexual relations. As Abrahamsen (1997) explains, condoms are often associated with prostitution, and a woman who requests the use of condoms is seen as either accusing her partner of infidelity or admitting that she is HIV positive. Women's social and economic dependence on men, cultural acceptance (or at least impossibility to fight against it) of men having many partners, and demand for sexual favors by those in positions of influence are among the factors that put women at much higher risk of becoming contaminated by HIV.

Ilumoka (1994) stresses that the vast majority of the poor in Africa are women and children. "For the large majority of women in Africa and other parts of the world whose struggles for basic needs and subsistence alongside men prevents them from changing their lives for better, addressing the problem of poverty is a priority human rights issue. (...) [I]nternational economic policies like those expressed in structural adjustment programs are a main source of violation of their human rights" (1994: 321), explains the author.

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<sup>15</sup> Human Rights Watch 2002. *Suffering in Silence*. Available at <<http://www.hrw.org/reports/2003/zambia>> (Retrieved in October 7, 2006).

## Violence (against women)

*“Family tradition perpetuates a culture of terror that humiliates women, teaches children to lie, and spreads the plague of fear. Human Rights should begin at home.”*  
Eduardo Galeano.<sup>16</sup>

As Copelon (1994: 120) explains, “domestic violence against women is systematic and structural, a mechanism of patriarchal control of women that is built on male superiority and female inferiority, sex stereotyped roles and expectations, and the economic, social and political predominance of men and dependency of women.” In Zambian society, violence against women takes several shapes – from child’s abuse to marital rape and group aggression - and it is, in many cases, socially accepted. A survey by the USAID<sup>17</sup> found that 48 percent of the women interviewed had been subjected to physical or sexual abuse. Glynn (Glynn et al. 2001) mentions that studies in Zambia and Kenya show that HIV rates were 10 percent higher among married young women than among their unmarried female counterparts.

The Young Women's Christian Association (YWCA) estimates that eight cases of rape of young girls happen every week in Lusaka, Zambia’s capital.<sup>18</sup> “Nationally, the figure is much higher - about 12 every week,” declared Superintendent Presphord Kasale, the head of the Victims Support Unit of the Lusaka Division of the Zambia Police Service, to a South African newspaper.<sup>19</sup> According to Amnesty International<sup>20</sup>, one Lusaka hospital alone was reported to be treating four new rape cases of adult women every day. Another research in the

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<sup>16</sup> Eduardo Galeano. 1989. *The Book of Embraces* (143) quoted in Copelon 1996.

<sup>17</sup> Amnesty International. 2005. *Zambia Report 2005*. Available at <<http://web.amnesty.org/report2005/zmb-summary-eng>> (Retrieved on December 8 2006).

<sup>18</sup> IRIN/PLUSNEWS  
<[http://www.irinnews.org/report.asp?ReportID=56528&SelectRegion=Southern\\_Africa&SelectCountry=ZAMBIA](http://www.irinnews.org/report.asp?ReportID=56528&SelectRegion=Southern_Africa&SelectCountry=ZAMBIA)> November 27, 2006. (Retrieved on December 8, 2006).

<sup>19</sup> IRIN/PLUSNEWS.

<sup>20</sup> IRIN/PLUSNEWS.

same article points out that almost half of married women over 15 years of age reported being battered or physically abused by their husbands, and 53 percent of women overall have suffered physical violence.

“Suffering in Silence” (2002),<sup>21</sup> a report of Human Rights Watch, informs that 2,308 cases of rape were reported to the authorities in Zambia in 2002, and 25 percent of females between 12 and 24 years old reported to have lost their virginity by force. The same document points out that 40 percent of girls who have been raped suspect that they may have HIV/AIDS. Myths such as having sex with a virgin can be a cure for HIV result in rape and sexual abuse against girls. In this context, schools are not necessarily safe, as male teachers and older boys are among the abusers. And yet there are no shelters exclusively for girls who are abused in Zambia.

According to Zambian law, there is no such thing as marital rape. While the law prohibits rape – with sentences that usually turn into hard labor<sup>22</sup> – it does not specifically prohibit marital rape and statutes that criminalize such a violation cannot be used to put on trial cases of rape within the wedlock. To date courts have not tried a case involving marital rape.<sup>23</sup>

The image of women as immoral and lacking virtue can also be the cause of punishment. One of the most horrible things I witnessed (from inside a vehicle) in Zambia was the lynching of a woman who was allegedly a sex worker. A group of over 100 people – men and women - gathered at the market in a small village next to Monze, in the Southern Province, to “teach that woman a lesson”, in the words of a local man.<sup>24</sup> Data on how many of these cases happen in the country does not seem to be available.

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<sup>21</sup> Human Rights Watch 2002. “Suffering in Silence.” Available at <<http://www.hrw.org/reports/2003/zambia>> (Retrieved in October 7, 2006).

<sup>22</sup> US Department of State. 2006 “Zambia Country Reports on Human Rights Practices 2005.” Available at <<http://www.state.gov/g/drl/rls/hrrpt/2005/61599.htm>> (Retrieved on December 7, 2006).

<sup>23</sup> US Department of State, Zambia Country Reports.

<sup>24</sup> The scene described took place in March 2004. At that time, I worked as a volunteer for a Zambian non-profit organization, in Southern Province.



## Discrimination

Discrimination is the basis of the other problems related to women's lower status and vulnerability to violations of human rights. It is in itself a severe widespread violation. Lack of access to education, to resources, and to decision-making process are based on a discriminatory system that has only gotten worse with the increasingly rates of HIV/AIDS. Within this context, discrimination not only exposes women and girls to the epidemic in higher scale, but also generates extreme forms of violence addressed to those infected or affected by the disease.

Violence or fear of hostility may discourage women from looking for HIV testing, prevent disclosure of their status and consequently delay their access to AIDS treatment. Women who test positive for HIV are vulnerable to violence from their partners as well as discrimination within their families and communities. AllAfrica.com<sup>25</sup> published the testimony of Maria Nashilongo, 32 years old, who tells her story of discrimination: "I lost everything. My husband died. My parents deserted me. My son lives with relatives. I don't even have money to pay for food. I sleep in this ugly shack on the ground without a mattress. It's cold and wet. I feel ill and weak. I'm hungry. Isn't a family supposed to support you during times of hardship? My family threw me away like a broken toy. But I am a human being, am I not?" Virginia Bond<sup>26</sup> emphasizes that because HIV is a sexually transmitted disease, it is often associated with having many sexual partners, and moral judgments are instantly made. Women are especially vulnerable to this prejudice, and they may also be blamed for infecting their children. Victims of stigma suffer physical and social isolation from their family, friends and community; they are made to feel guilty, ashamed and inferior (Bond et al 2003).

Zambia is a country party of the Convention on the Elimination of Discrimination against Women (CEDAW) since July 1980 (signed in the same day as the United States) having ratified the signature in 1985,<sup>27</sup> which does not

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<sup>25</sup> AllAfrica. Available at <http://fr.allafrica.com/photoessay/womenaids/> (Retrieved on October 3, 2006).

<sup>26</sup> Virginia Bond et al. 2003 "Disentangling HIV and AIDS stigma in Ethiopia, Tanzania and Zambia" Available at <http://www.icrw.org/docs/stigmareport093003.pdf> (Retrieved on December 9, 2006).

<sup>27</sup> United Nations. Women Watch. <<http://www.un.org/womenwatch/daw/cedaw/states.htm>> (Retrieved on December 7, 2006).

necessarily mean that the premises of the document are followed in practice. The convention states in its article I that:

The term “discrimination against women” shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

In reality, discriminatory gender practices start early, in childhood, when girls have their roles established and their education jeopardized. If the family does not have enough resources to send the kids to school, boys are going to be chosen in detriment of the girl. If girls get pregnant, they have to leave school. Alick Nyirenda, from Copperbelt Health Education Project<sup>28</sup> stated that: “Each year, children are ushered into roles they’re not supposed to perform; heading households, unable to attend school, getting pregnant, on the street, into commercial sex. They lose parents very early, and they’re ushered into these roles.”

Besides, women contaminated by HIV are frequently discriminated against and many times accused by health workers of being promiscuous. HIV positive women also find themselves discriminated against when attempting to have health care and support within the family. Even in this context, resources are more likely to be used to paying for treatment and arranging care for sick males more than for females<sup>29</sup>.

### **Impunity**

As mentioned in previous sections, violence against women is silenced and invisible in Zambia. As mentioned before, the law does not recognize marital rape, and other cases of rape are hardly reported, not to speak of being punished. That way, most of the cases related to the violations of human rights of women remain in impunity. Customary law is also very prevalent in some regions. Where local courts

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<sup>28</sup> See Human Rights Watch. “Suffering in Silence.”

<sup>29</sup> UNAIDS. Available at [http://www.irinnews.org/webspecials/hiv\\_aids/fs\\_gender.asp#the](http://www.irinnews.org/webspecials/hiv_aids/fs_gender.asp#the) (Retrieved on December 7, 2006).

employ the principles of customary law, lawyers are stopped from participating in proceedings in such courts, and there are few formal rules of procedure.<sup>30</sup>

Customary law is particularly relevant in matters relating to family law and inheritance rights, areas in which women are often subjected to gender-based discrimination.<sup>31</sup> In its concluding comments on the report by Zambia in 1994, the Committee on the Elimination of Discrimination Against Women expressed its great concern regarding the violation of the rights of women under customary marriage laws and called upon the government to “study the possibility of codifying the customary laws so that those found to be in violation of the Convention could be reformed or abolished.”<sup>32</sup> As pointed out by Meintjes, Pillay and Turshen, (2001) in many African societies distribution of resources to women is made according to their “virtue”: “good girls” – unmarried virgins, faithful wives and celibate widows – qualify, whereas “bad girls” – women who have sex outside of marriage, sex workers and women who were raped – are punished and do not “qualify” to share resources with others. This way, the economic disadvantage is created and increased according to the “virtue” or to the denial of women’s sexuality. Accepting this premise is denying women’s rights and women’s autonomy as human beings.

One of the main points of application of customary law is regarding property inheritance rights. According to International Reporting Project,<sup>33</sup> under the law, the children of a deceased have the right to equally split 50 percent his properties, whereas the widow receives 20 percent, the parents of the man receive other 20 percent, and the 10 percent left go to other relatives of the man. As polygamy is acceptable (the first wife has to agree to it at the time of her wedding), the widow is supposed to share her portion equally with any other women who can

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<sup>30</sup> US Department of State. 2006 “Zambia Country Reports on Human Rights Practices 2005.” Available at <<http://www.state.gov/g/drl/rls/hrrpt/2005/61599.htm>> (Retrieved on December 7, 2006).

<sup>31</sup> Afronet, “The dilemma of local courts in Zambia,” 1998, 17 quoted in OMCT. “Violence against Women in Zambia.”

<sup>32</sup>Afronet, “The dilemma of local courts in Zambia.”

<sup>33</sup> International Reporting Project. John Hopkins University. Available at [http://www.journalismfellowships.org/stories/zambia/zambia\\_widows.htm](http://www.journalismfellowships.org/stories/zambia/zambia_widows.htm) - (Retrieved on October 7, 2006).

prove a marital relationship with the deceased man. However, what happens in fact under customary law is that all rights to property go to the man's family. This practice - called "property grabbing"- is widespread.

### **Lack of democracy**

Zambia earned its independence from Britain in 1964, and was under one-party rule until the early 1990s. President Levy Mwanawasa was elected in 2001 and re-elected in 2006, although opposition parties claim the elections were manipulated.<sup>34</sup> Mwanawasa, however, has attempted to fix the perception of corruption in the government.<sup>35</sup>

Officially, the form of government and the domestic legal system within the country is a constitutional democracy, with the Constitution being the supreme law. The 1964 Constitution, formulated immediately after independence, provided for a multiparty system, an independent judiciary, a bill of rights, separation of powers and a presidential system of government.<sup>36</sup>

Even with free elections, democracy is far from being in place. There can be no true democracy in a country where over half of the population is discriminated against, do not have access to political participation, and live under threat of physical and emotional violence, poverty, and partial or totally excluded from access to health care. Representation of women in government and public institutions must be secured as a matter of participation and enabling better protection of their rights. Women's political participation is still very small, and women are the majority of those lacking education.

With the change from one-party system to a multi-party democracy in 1991, there were only three women serving at Central Committee level (which then was the equivalent of the present Cabinet), and there were only seven women out of a Parliament of 150 members.<sup>37</sup> Social Watch and Women for Change<sup>38</sup> point

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<sup>34</sup> BBC News 2005. "Country Profile: Zambia." Available at <[http://news.bbc.co.uk/1/hi/world/africa/country\\_profiles/1069294.stm](http://news.bbc.co.uk/1/hi/world/africa/country_profiles/1069294.stm)> (Retrieved on December 9, 2006).

<sup>35</sup> BBC News, "Country Profile: Zambia."

<sup>36</sup>Centre for Human Rights, University of Pretoria 2004. "HIV and Human Rights in Zambia Report" Pretoria, South Africa.

<sup>37</sup> Social Watch. 2005 Report. Available at [www.socialwatch.org](http://www.socialwatch.org) (Retrieved on December 9, 2006).

out that between 1991 and 2001 the number of women in Parliament rose from 6 percent to 12 percent. In 2005, women were holding 12.7 percent of seats, amount that was still below the requirement of the Southern African Development Community (SADC)<sup>39</sup> of 30 percent of women's representatives. According to the report, negative societal attitudes are among the greatest challenges faced in trying to ensure more women are involved in decision-making positions. Judge Lombe Chibesakunda, chair of the National Human Rights Commission, stated that "women in Zambia have continued to be under-represented at all level of decision making in government and other institutions in the communities."<sup>40</sup>

### **Weak institutions**

Colonial, customary and religious legal systems co-exist within the formal system in most African countries, as pointed out by Ilumoka (1994). The author argues that challenges on the rule of the law that imposed discrimination on women have not existed "for reasons such as the irrelevance of modern legal discourse to the vast majority of people in these countries, as well as the problem of access to modern legal processes and institutions" (1994: 317).

In terms of health system, Zambia lacks infra-structure to offer treatment those who fall sick with AIDS or HIV related diseases. Anti-retroviral therapy program offered by the government only reach 10,000 people,<sup>41</sup> in a context in which close to two million people have the virus and will need drugs at some point. In 2004, to avoid the burden of having to care for infected prisoners the government decided to release those whose health conditions are severe,<sup>42</sup> returning the burden to their already impoverished families.

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<sup>38</sup> Social Watch. 2005 Report.

<sup>39</sup> Southern African Development Community (SADC) Heads of State Declaration on Gender and Development (1997). See: [www.socialwatch.org](http://www.socialwatch.org) (Retrieved on December 8, 2006).

<sup>40</sup> Social Watch. [www.socialwatch.org](http://www.socialwatch.org) (Retrieved on December 8, 2006).

<sup>41</sup> Xinhua News Agency. March 31, 2005.

<sup>42</sup> Africa News. "HIV-Positive Prisoners Find Freedom a Mixed Blessing" October 21, 2004. Available at <[http://ipsnews.net/note\\_award.asp?idnews=25968](http://ipsnews.net/note_award.asp?idnews=25968)> (Retrieved on December 9, 2006).

International Non-Governmental Organization often impose ABC-based (Abstinence, Be faithful, use Condoms) programs. In this approach, abstinence is encouraged over the two other alternatives. Being faithful is also an option; condoms are a third choice. What most of these programs ignore is the frequent inability of the women to negotiate their safety within a relationship in all three levels, as already discussed above. As noted by Pietrzyk (2005) the main problem is that awareness and education are meaningless when it is the social and economic condition, together with the lack of access to education what is positioning people as vulnerable to HIV infection. "The behavior-change logic has made important steps in rethinking the concepts of 'risky' and 'behaviors,' but the more astute analyses integrate the concept of vulnerabilities." As Mann and Tarantola (1992, in Pietrzyk 2005) argue, vulnerabilities are not necessarily associated to personal choice, behavior or practice; they are often the result of structural constraints. International programs that seek some effectiveness have to work with grassroots organizations helping women to acquire financial independence, ability to gain control over their bodies, and exercise their self-determination. At same time it is important to invest in programs that help to extend the life (and the quality of life) of people already infected by the virus.<sup>43</sup> This way, they would be able to care for their children and to avoid exposing orphans to more violence and abandonment.

In terms of pre-natal care related to mother-to-child transmission of HIV, the service is provided generally by NGOs. Another major health issue related to lack of pre-natal care is the occurrence of fistula, "the most devastating of all pregnancy-related disabilities," according to the World Health Organization (WHO).<sup>44</sup> Fistula is caused by a prolonged labor, during which the baby's head pressure the mother's pelvis causing a shortage in blood supply to the soft tissues surrounding the mother's bladder, rectum and vagina, and consequently damaging the tissue. A hole is created between the woman's birth canal and the bladder and the mother loses control over her urination. The main causes why women undergo

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<sup>43</sup> DAPP Development Aid from People to People, the organization I worked for in Zambia, was one of the only NGOs in the country, as of 2004, to promote a "positive life" type of program, trying to ensure a longer life time for the HIV positive people.

<sup>44</sup> "Health care providers, planners underplay fistula problem" *Times of Zambia*, 2005. Available at <<http://www.times.co.zm/news/viewnews.cgi?category=8&id=1145300093>> (Retrieved on December 8, 2006).

such condition are related to the lack of medical help during the delivery of the baby, most of the time because of the long distances to the nearest rural health centers. Specialists explain that fistula has many times been caused by early marriages that are forced on girls around 12 years old that have neither physical conditions nor maturity to endure a pregnancy.<sup>45</sup>

### Cultural Practices

According to Human Rights Watch<sup>46</sup>, several practices which create high risks of contracting HIV/AIDS are widely spread in Zambia. Among these practices – often imposed on women - are sexual cleansing, a practice in which a deceased man's relative has sex with his widow, in the belief that this will dispel evil forces; initiation ceremonies, in which girls entering adolescence receive instructions about marriage and sexuality – including the use of herbs that stop their lubrication during intercourse which would make sex more enjoyable for the men; and the use of traditional healers<sup>47</sup> (who use contaminated razors and often use blood to treat diseases). Various alternative, risk-free rituals do exist, and are becoming more popular in some areas.<sup>48</sup>

Beyani (1994) emphasizes the collective character of most African societies, in which the rights of the family and the community have more power than the individual ones. “In order to preserve the family as a unity, and to the extent that it continues to exist as such, individual rights of the members of the family are generally exercised within the parameters of the collective interests of the family” (1994: 291). It is important to remember that in a highly patriarchal society, “the interests of the family” obviously stand for “the interests of the men of the family.” One clear example of this in Zambian society as well as in many other Southern African countries, is the related to marriage arrangements. The practice of *lobola* - payment of dowry - is still prevalent. In that context, a woman exercises no choice in relation to her life. She is basically “sold” into marriage and

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<sup>45</sup> Times of Zambia. “Health care providers.”

<sup>46</sup> Human Rights Watch. “Suffering in Silence.”

<sup>47</sup> Herald Tribune. “Where traditional customs can mean AIDS” November 14, 2006. Available at <http://www.ih.com/articles/2006/11/14/news/cameroon.php> (Retrieved on December 9, 2006).

<sup>48</sup> Herald Tribune. “Where traditional customs can mean AIDS.”

in the event of divorce, the family has to return the money paid for *lobola*, which most of the time constrain women's chance to leave an abusive relationship.

### **International forces**

Besides being a signatory of the CEDAW, Zambia is also part of the African Charter on Human and Peoples' Rights. As noted by Beyani (1994), Article 5 of the African Charter prohibits torture, cruel, inhuman or degrading punishment or treatment while Article 18 (3) provides that States Parties shall ensure the elimination of all forms of discrimination against women as well as protection for the rights of women "as stipulated in international declarations and conventions."

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

### **Conclusion – Recommendations from the ground**

What do the grassroots organizations recommend in these matters? How can the culture of human rights be implemented? How can women reverse the situation? Zambia has currently several feminist grassroots organizations working in many fronts in order to decrease the gender inequality and consequently the vulnerability of women to HIV/AIDS epidemic. Some of them include: Zambian National Women's Lobby which promote the participation of women in decision-making process; Women for Change,<sup>49</sup> working to ban cultural practices that discriminate against women and stimulate political inclusion of women; Society for Women and AIDS in Zambia, which fight for women's empowerment by land access, between other projects; YWCA;<sup>50</sup> Zambia White Ribbon Alliance for Safe Motherhood; and

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<sup>49</sup> More information about Women for Change can be found at <<http://www.wfc.org.zm>>

<sup>50</sup> More information about YWCA can be found at <[http://www.widnet.org.zm/partner\\_ywca.php](http://www.widnet.org.zm/partner_ywca.php)>



Zambia Alliance of Women<sup>51</sup> are some examples. The Zambian government, in collaboration with civil society, has also initiated a consultation process on a gender-based violence bill. Along with that, YWCA recently informed that an amendment to the penal code providing more rigid sentences for rapists was before parliament.<sup>52</sup>

The first and more important concern of these organizations is that women should not be seen as victims, but should instead be empowered. As Mladjenovic (2001) remarks, victimization weakens them and take even more agency away. Some of the recommendations and goal towards which organizations such as Women for Change and Human Rights Watch are working include<sup>53</sup>: fight against discrimination and domestic violence - media, schools, government, judicial system, non-profit organizations have to join forces to make that become reality; recognize women's labor, improving their social and economic status; stress the importance and make possible the education for girls; eliminate the practice of excluding pregnant girls from school; create programs to defend sex workers from violence and provide them with HIV/AIDS information, counseling and treatment; include spousal rape a crime along with other categories of sexual violence; create media campaigns to eliminate stigma against HIV positive people; ensure legal protection for people infected with HIV/AIDS, as well as those orphaned or widowed due to the epidemic.

As important as intensifying the fight for human rights within Zambia's national context, it is to work for the extension of the concept of humanity to women, especially those who also face racial and class discrimination. "The barriers to the implementation of human rights are two-fold. First, the lack of proper implementation machinery to make rights real in the lives of women is an obstacle, as is women's lack of awareness of the rights machinery that would empower them. The second and more formidable barrier is the refusal to accept the values in and of themselves: an ideological resistance to human rights of women" (Coomaraswamy 1994: 40). The problem is not a lack of concerns or practical ways

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<sup>51</sup> More information about Zambia Alliance of Women can be found at <<http://www.zaw.org.zm/index.html>>

<sup>52</sup> IRIN/Plusnews <[http://www.irinnews.org/report.asp?ReportID=56528&SelectRegion=Southern\\_Africa&SelectCountry=ZAMBIA](http://www.irinnews.org/report.asp?ReportID=56528&SelectRegion=Southern_Africa&SelectCountry=ZAMBIA)> November 27, 2006. (Retrieved on December 8, 2006).

<sup>53</sup> Sources: Women for Change, Human Rights Watch and AllAfrica News.

to address gender inequality but rather a lack of changes on a deeper level that it can challenge the way in which societies conceive and organize women's and men's roles, rights, responsibilities, and control over property and resources. A redefinition of power in relational terms, where the survival of one depends on the well-being of the other, will certainly not only enhance women's rights and safety, but also men's, who are also under major threats (Hudson 2005). Any approach that seeks to secure extensive and inclusive human rights needs to recognize gender is a primary way of signifying relationship of power through the differential control over or access to material and symbolic resources (Scott 1986: 1069).

Mladjenovic remarks that "transformation is not just about conditions of structures, but also about internal processes of consciousness of creating words and language that will provide women with a sense of their own self-determination" (2001: 187). In this context, any approach to implement human rights that include all people under the category "human" has to contribute to changing the image of women, through effective tools of communication and through education of men and women.

As pointed out by Albertyn (2000), the stereotypical gender roles that underpin sexual inequality and sexual violence are confirmed and reproduced by social, cultural and religious norms, creating an impression that these roles are natural and inevitable and can make them particularly difficult to contest and change. Abrahamsen (1997) concludes: "As long as women are not in a position to have control over their own lives and bodies, simply informing them about AIDS will not be enough. The fight against AIDS will require changing women's social and economic status, towards greater independence and control over interpersonal relationships" (1997: 187).

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