Zambia

National Child Protection Legislation

National Legislation

- **Age of Child:** Under 16 years of age
  
  **Penal Code**
  
  **Article 131 Sec. A – Definition of child**
  In this Part “child” means a person below the age of sixteen years.

- **Age of Consent:** 15 years old
  
  **Penal Code**
  
  **Sec. 138**
  Any person who unlawfully and carnally knows any child commits a felony and is liable, upon conviction, to a term of imprisonment of not less than fifteen years and may be liable to imprisonment for life.

  **Employment Act**
  
  a “child” is defined as one who is younger than 15 years old; a “young person is one who is between the ages of 15 and 18 years old

- **Age of Marriage:** 21 years old
  
  **Marriage Act**
  
  **Sec. 17 – When consent to marriage is necessary**
  If either party to an intended marriage, not being a widower or widow, is under twenty-one years of age, the written consent of the father, or if he be dead or of unsound mind or absent from Zambia, of the mother, or if both be dead or of unsound mind or absent from Zambia, of the guardian of such party shall be produced and shall be annexed to the affidavit required under sections ten and twelve and, save as is otherwise provided in section nineteen, no special license shall be granted or certificate issued without the production of such consent.

- **Age of Criminal Responsibility:** 8 years old
  
  **Penal Code**
  
  **Sec. 14 – Immature Age**
  1) A person under the age of eight years is not criminally responsible for any act or omission.
  2) Immature age
  3) A person under the age of twelve years is not criminally responsible for an act or omission, unless it is proved that at the time of doing the act or making the omission, he had capacity to know that he ought not to do the act or make the omission.
4) A male person under the age of twelve years is presumed to be incapable of having carnal knowledge.

- **Extraterritoriality**
  
  **Extradition Act**

  **Sec. 3 – Application of Part II**

  (1) Where by any international agreement or convention to which the Republic is a party an arrangement (in this Act referred to as an "extradition agreement") is made with a foreign country for the surrender by each country to the other of persons wanted for prosecution or punishment or where the President is satisfied that reciprocal facilities to that effect will be afforded by a foreign country, the President may, by statutory order, apply this Part in relation to that country.

  **Sec. 5 – Obligation to Extradite**

  Where a country in relation to which this Part applies duly requests the surrender of a person who is being proceeded against in that country for an offence or who is wanted by that country for the carrying out of a sentence, that person shall, subject to and in accordance with the provisions of this Part and of Part IV, be surrendered to that country.

  **Sec. 6 – Request for extradition**

  A request for the extradition of any person under this Part shall be made in writing to the Attorney-General and shall be communicated by Request for extradition by a -

  a) a diplomatic agent of the requesting country accredited to the Republic; or

  b) any other means provided in the relevant extradition provisions.

- **Dual Criminality**

  **The Extradition Act**

  **Sec. 4 – Extradition Offences**

  1) (1) Subject to subsection (2), extradition under this Part shall be granted only in respect of an offence which is punishable under the laws of the requesting country and of the Republic by imprisonment for a maximum period of not less than one year or by a more severe penalty or;

  for which, if there has been a conviction and sentence in the requesting country, imprisonment for a period of not less than four months or a more severe penalty has been imposed.

  2) If a request is made for extradition in respect of an offence to which subsection (1) applies and the request includes also any other offence which is punishable under the laws of the requesting country and of the Republic but does not comply with the conditions as to the period of imprisonment which may be, or has been, imposed,
then extradition may, subject to the provisions of this Part, be granted also in respect of the latter offence.

In this section, any reference to an offence punishable under the laws of the Republic shall be construed as including references to an act which, if it had been committed in the Republic, would constitute such an offence.

- **Mandatory reporting requirements**

  *Zambia currently does not have any legislation pertaining to mandatory reporting for individuals when it pertains to violence/exploitation of children. At this time, Zambia is making headway with the [Anti-Gender Based Violence Act 2011](#) which protects individuals against gender-based violence and forces reporting of violence by the parents, caretakers, social workers, or other professionals.*

- **Obligations of Educational Institutions**

  *Code of Ethics for Teachers, Zambia*

  **Art. 11 – Educational programmes and instructions**
  
  A teacher is responsible for assessing, implementing and advising on education programmes and instructions in an educational institution or aided education institution.

  **Art. 21 – Relations with Learner**
  
  3) A teacher shall, as far as practicable, protect a learner from conditions that distract learning or are detrimental to the health and safety of the learner.
  
  5) A teacher shall maintain an appropriate, morally and professionally acceptable relationship with a learner.
  
  6) A teacher shall be considerate of a learner’s feelings and circumstances.

  **Art. 22 – Confidentiality of learner’s information**
  
  A teacher shall not disclose information about a learner given in confidence to that teacher except –
  
  a) as required by law
  
  b) in the interest of a learner
  
  c) in the interest of a parent; or
  
  d) in the public interest

  **Art. 23 – Discipline of a learner**
  
  3) A teacher shall not, in exercising discipline over a learner –
    
    a) ill-treat or abuse that learner; or
    
    b) administer corporal punishment as a form of discipline

  **Art. 24 – Undue Influence**
  
  2) A teacher shall not cause a learner to –

*The information contained herein should not be construed as offering legal advice or guidance.*
a) submit to that teacher’s ill motives; or
b) engage in sexual misconduct, illicit drug consumption and trafficking, cultism, human trafficking or other illegal activities.

**Education Act**

**Art. 26— Reports of Suspension or Exclusions**
The Head of a school shall immediately report the full facts of a case of suspension or exclusion made by him to the Chief Education Officer for the region concerned.

- **Prohibition to hold certain positions**
  *No information found pertaining to the prohibition to hold positions where children are sanctioned.*

- **Employment Law**

  **Education Act**
  **Sec. 18— Offences**
  Any person who conducts a private school—
  a. which is not registered; or
  b. for which the registration has lapsed; or
  c. in respect of which the proprietor has been notified in writing that the registration of the private school has been cancelled.
  shall be guilty of an offence and liable on conviction to a fine not exceeding seventy-five thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

  **Penal Code**
  **Sec. 277— Stealing by persons in public service**
  If the offender is a person employed in the public service and the thing stollen is the property of the Government, a local authority or a corporation, body or board, including an institution of higher learning in which the Government has a majority or controlling interest, or came into his possession by virtue of his employment, he is liable to imprisonment for fifteen years.

  **Employment Code**
  **Art. 87— Powers of Authorised officer, police officer or immigration officer**
  A person commits an offence if that person—
  a) delays or obstructs an authorized officer, police officer or immigration officer in the performance of an authorized officer, police officer or immigration officer’s functions under this Act;
  b) refuses to give an authorized officer, police officer or immigration officer reasonable assistance that an authorized officer, police officer or immigration officer may require for the purpose of exercising the authorized officer, police officer or immigration officer’s powers;
c) gives an authorized officer, police officer or immigration officer false or misleading information in answer to an inquiry made by an authorized officer, police officer or immigration officer; or
d) impersonates or falsely represents oneself to be an authorized officer, police officer or immigration officer.

4) A person convicted under subsection (3) is liable to a fine not exceeding three hundred thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

### Criminal Law - Defamation

**Penal Code**

**Sec. 192 – Defamation of defamatory manner**

Defamatory matter is matter likely to injure the reputation of any person by exposing him to hatred, contempt or ridicule, or likely to damage any person in his profession or trade by an injury to his reputation. It is immaterial whether at the time of the publication of the defamatory matter the person concerning whom such matter is published is living or dead.

**Sec. 194 – Defamation of unlawful publication**

Any publication of defamatory matter concerning a person is unlawful within the meaning of this Chapter, unless-

a) the matter is true and it was for the public benefit that it should be published; or

b) it is privileged on one of the grounds hereafter mentioned in this Chapter.

**Sec. 195 – Cases in which publication of defamatory matter is absolutely privileged**

1) The publication of defamatory matter is absolutely privileged, and no person shall, under any circumstances, be liable to punishment under this Code in respect thereof, in any of the following cases, namely:

a. if the matter is published by the President, or by the Cabinet or the National Assembly in any official document or proceeding; or

b. if the matter is published in the Cabinet or the National Assembly by a Minister or by any member of the National Assembly; or

   c. if the matter is published concerning a person subject to military or naval discipline for the time being, and relates to his conduct as a person subject to such discipline, and is published by some person having authority over him in respect of such conduct, and to some person having authority over him in respect of such conduct; or

   d. if the matter is published in the course of any judicial proceedings by a person taking part therein as a Judge or magistrate or commissioner or counsel or solicitor or assessor or witness or party thereto; or

   e. if the matter published is in fact a fair report of anything said, done, or published in the Cabinet or the National Assembly; or

   f. if the person publishing the matter is legally bound to publish it.
2) Where a publication is absolutely privileged, it is immaterial for the purposes of this Chapter whether the matter be true or false, and whether it be or be not known or believed to be false, and whether it be or be not published in good faith: Provided that nothing in this section shall exempt a person from any liability to punishment under any other Chapter of this Code or under any other Act or Statute in force within Zambia. (As amended by No. 26 of 1940 and G.N. No. 303 of 1964)

Sec. 196 – Cases in which publication of defamatory matter is conditionally privileged

A publication of defamatory matter is privileged, on condition that it was published in good faith, if the relation between the parties by and to whom the publication is made is such that the person publishing the matter is under some legal, moral or social duty to publish it to the person to whom the publication is made or has a legitimate personal interest in so publishing it, provided that the publication does not exceed either in extent or matter what is reasonably sufficient for the occasion, and in any of the following cases, namely:

a) if the matter published is in fact a fair report of anything said, done, or shown in a civil or criminal inquiry or proceedings before any court: Provided that if the court prohibits the publication of anything said or shown before it, on the ground that it is seditious, immoral, or blasphemous, the publication thereof shall not be privileged; or

b) if the matter published is a copy or reproduction, or in fact a fair abstract, of any matter which has been previously published, and the previous publication of which was or would have been privileged under the last preceding section; or

c) if the matter is an expression of opinion, in good faith as to the conduct of a person in a judicial, official, or other public capacity, or as to his personal character so far as it appears in such conduct; or

d) if the matter is an expression of opinion in good faith as to the conduct of a person in relation to any public question or matter, or as to his personal character so far as it appears in such conduct; or

e) if the matter is an expression of opinion in good faith as to the conduct of any person as disclosed by evidence given in a public legal proceeding, whether civil or criminal, or as to the conduct of any person as a party, witness, or otherwise in any such proceeding, or as to the character of any person so far as it appears in any such conduct as in this paragraph mentioned; or

f) if the matter is an expression of opinion in good faith as to the merits of any book, writing, painting, speech, or other work, performance, or act published, or publicly done or made, or submitted by a person to the judgment of the public, or as to the character of the person so far as it appears therein; or

g) if the matter is a censure passed by a person in good faith on the conduct of another person in any matter in respect of which he has authority, by contract or otherwise, over the other person, or on the character of the other person, so far as it appears in such conduct; or

h) if the matter is a complaint or accusation made by a person in good faith against another person in respect of his conduct in any matter, or in respect of his character.
so far as it appears in such conduct, to any person having authority, by contract or otherwise, over that other person in respect of such conduct or matter, or having authority by law to inquire into or receive complaints respecting such conduct or matter; or

i) if the matter is published in good faith for the protection of the rights or interests of the person who publishes it, or of the person to whom it is published, or of some person in whom the person to whom it is published is interested.

Sec. 197 - Explanation as to good faith
A publication of defamatory matter shall not be deemed to have been made in good faith by a person, within the meaning of the last preceding section, if it is made to appear either-

a) that the matter was untrue, and that he did not believe it to be true; or
b) that the matter was untrue, and that he published it without having taken reasonable care to ascertain whether it was true or false; or

c) that, in publishing the matter, he acted with intent to injure the person defamed in a substantially greater degree or substantially otherwise than was reasonably necessary for the interest of the public or for the protection of the private right or interest in respect of which he claims to be privileged.

Sexual Offenses Against Children

Zambia Constitution, 2016
Art. 24 - Protection of Young Persons from Exploitation
1. No young person shall be employed and shall in no case be caused or permitted to engage in any occupation or employment which would prejudice his health or education or interfere with his physical, mental or moral development:

Provided that an Act of Parliament may provide for the employment of a young person for a wage under certain conditions.

2. All young persons shall be protected against physical or mental ill-treatment, all forms of neglect, cruelty or exploitation.
3. No young person shall be the subject of traffic in any form.
4. In this Article “young person” means any person under the age of fifteen years.

Penal Code
Art. 58 - Child Solicitation
1. A person commits an offence if that person—

a) uses computer system to meet a child for the purpose of committing a sexual related crime;

b) communicates with a child through a computer system for the purpose of making it easier to procure the child to engage in sexual activity with that person;

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c) attracts a child for the purpose of making it easier to procure the child to engage in sexual activity with that person;
d) attracts a child for the purpose of making it easier to procure the child to engage in sexual activity with another person; or
e) recruits a child to participate in pornographic performances that is intended to be produced or recorded with or without the intent to distribute such material through a computer system or computer network;

2. A person convicted of an offence under subsection (1) is liable to imprisonment for a period not exceeding fifteen years.

Sec. 138 – Defilement of girls under sixteen
1) Any person who unlawfully and carnally knows any child commits a felony and is liable, upon conviction, to a term of imprisonment of not less than fifteen years and may be liable to imprisonment for life.

Sec. 140– Procuration
a) procures or attempts to procure any child or other person to have unlawful carnal knowledge either in Zambia or elsewhere, with any person or other persons for pornography, bestiality or any other purpose;
b) procures or attempts to procure an child or other person to become either in Zambia or elsewhere, a common prostitute;
c) procures or attempts to procure any child or person to leave Zambia with the intent that the child or person may become an inmate of or frequent a brothel elsewhere; or
d) procures or attempts to procure any child or person to leave that child’s or other person’s usual place of abode in Zambia with intent that the child or other person may, for the purposes of prostitution, become an inmate of or frequent a brothel either in Zambia or elsewhere commits a felony and is liable, upon conviction, to imprisonment for a term of not less than twenty years and may be liable to imprisonment for life...

Sec. 142 – Householder, etc., permitting defilement of girl under twelve on his premises
Any person who, being the owner or occupier of premises or having or acting or assisting in the management or control thereof, induces or knowingly suffers any girl under the age of twelve years to resort to or be upon such premises for the purpose of being unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man or generally, is guilty of a felony and is liable to imprisonment for five years.

Sec. 143– Householder, etc., permitting defilement of girl under sixteen on his premises
Any person who, being the owner or occupier of premises or having or acting or assisting in the management or control thereof, induces or knowingly suffers any girl above the age of twelve years and under the age of sixteen years to resort to or be upon such premises for the purpose of being unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man or generally, is guilty of a misdemeanor.
Sec. 144 - Detention with intent or in brothel
1) Any person who detains any child or other person against that child or other person’s will-
   a. in or upon any premises with intent that the child or other person may be unlawfully and
carnally known by any third person, whether particularly or generally or for rituals or any other purpose; or
   b. in any brothel; commits a felony and is liable, upon conviction, to imprisonment for a
term of not less than twenty years and may be liable to imprisonment for life.
3) A woman or girl shall be deemed to be unlawfully detained for immoral purposes if she is
so detained for the purpose of being unlawfully and carnally known by any man, whether
any particular man or generally; and-
   a. either is under the age of sixteen years; or
   b. if she is of or over the age of sixteen years and under the age of eighteen years, is so
detained against her will or against the will of her father or mother or of any person
having the lawful care or charge of her; or
   c. if she is of or over the age of eighteen years and is so detained against her will.

Sec. 157 - Indecent assault of boys under fourteen
Any person who unlawfully and indecently assaults a boy under the age of fourteen years is
guilty of a felony and is liable to imprisonment for seven years.

Sec. 159 - Incest by males
1) Any male person who has carnal knowledge of a female person, who is to his knowledge his
grand-daughter, daughter, sister, or mother, is guilty of a felony and is liable to
imprisonment for five years: Provided that if it is alleged in the information or charge and
proved that the female person is under the age of twelve years, the offender shall be liable
to imprisonment for life.

Sec. 161– Incest by females
Any female person of or above the age of sixteen years who with consent permits her
grandfather, father, brother, or son to have carnal knowledge of her (knowing him to be her
grandfather, father, brother, or son, as the case may be) is guilty of a felony and is liable to
imprisonment for five years.

Penal Code (amended by Act 2 of 2011)
Art. 177A. Child pornography
(1) Any person who engages a child or other person—
   (a) in a pornographic performance;
   (b) in the production of a pornographic film or other material; or
   (c) in a pornographic activity of any nature;
commits an offence and is liable, upon conviction, to a term of imprisonment of not less than
fifteen years and may be liable to imprisonment for life.
(2) Any person who—
   (a) sells or gives to a child pornographic material;
(b) compels, invites or allows a child to watch a pornographic film or view pornography on the internet or elsewhere or in any form intended to corrupt a child’s morals; commits an offence and is liable, upon conviction, to a term of imprisonment of not less than fifteen years.

**Anti- Human Trafficking Act (2008)**

**Sec. 3 – Prohibition of trafficking in persons**

1) Subject to subsections (2) to (11), a person who intentionally and unlawfully trafficks another person commits an offence and is liable, upon conviction, to imprisonment for a term of not less than twenty years and not exceeding thirty-years.

2) Where the victim of an offence under subsection (1) is a child, the offender is liable to imprisonment for a term of not less than twenty-five years and not exceeding thirty-five years.

3) Where the victim of an offence under subsection (1) is trafficked for the purpose of sexual exploitation, the offender is liable to imprisonment for a term of not less than twenty-five years and may be liable to imprisonment for life.

4) Where the victim is trafficked for the purpose of engaging the victim in the worst forms of labour or child labour, the offender is liable to imprisonment for a term of not less than twenty- years and not exceeding thirty-five years.

- **Female Genital Mutilation (FGM) / Female Circumcision**
  - **Penal Code** (amended by Act 2 of 2011)
  - **Art. 157. Harmful cultural practice**
    1) Any person who conducts or causes to be conducted a harmful cultural practice on a child commits a felony and is liable, upon conviction, to imprisonment for a term not less than fifteen years and may be liable to imprisonment for life.
    2) In this section “harmful cultural practice” includes sexual cleansing, female genital mutilation or in initiation ceremony that results in injury, the transmission of an infectious or life-threatening disease or loss of life to a child but does not include circumcision on a male child.

- **Child/Early/ Forced Marriage**
  - **Penal Code** (amended by Act 2 of 2011)
  Any person who dishonestly or with a fraudulent intention goes through the ceremony of marriage, knowing that he is not thereby lawfully married, is guilty of a felony and is liable to imprisonment for five years.

**Marriage Act**

**Sec. 33– Void marriages**

1. A marriage between persons either of whom is under the age of sixteen years shall be void:
   a. Provided that this section shall not apply when a Judge of the High Court has, on application being made, and on being satisfied that in the particular

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circumstances of the case it is not contrary to the public interest, given his consent to the marriage.

2. Nothing in this section shall affect any marriage already solemnized or contracted before the 20th May, 1949.

3. Any person who is married under this Act or whose marriage is declared by this Act to be valid, shall be incapable during the continuance of such marriage of contracting a valid marriage under any African customary law, but save as aforesaid, nothing in this Act contained shall affect the validity of any marriage contracted under or in accordance with any African customary law, or in any manner apply to marriages so contracted.