

**THE UNIVERSITY OF ZAMBIA**  
**SCHOOL OF LAW**

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**TO WHAT EXTENT DO CHILD HOMECARE MODELS SUCH AS ORPHANAGES AND CHESHIRE HOMES PROMOTE CHILDREN'S RIGHTS?**

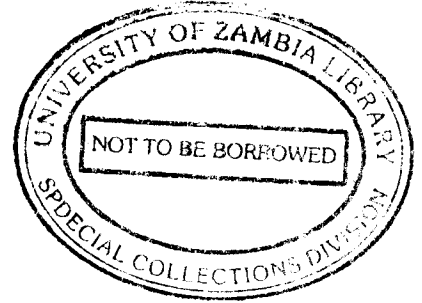
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**TO WHAT EXTENT DO CHILD HOMECARE MODELS SUCH AS ORPHANAGES AND CHESHIRE HOMES PROMOTE CHILDRENS RIGHTS?**

**BY**

**EJANG OKELLO**

A Directed Research submitted to the Faculty of Law of the University of Zambia in partial fulfillment of the requirements for the award of the degree of the Bachelor of Laws (L.L.B).

Faculty of Law  
University of Zambia  
Lusaka.  
February, 2007.

## **DEDICATION**

*To my lovely, sweet and blessed parents, DR. David Okello Owona, my father and Mother, Mrs Jocilyn Esnart Lifumbela Okello. Thank you so much for being there for me at all times. Thank you for standing and praying for me. Thank you for the support and guidance you have always accorded me through life's long journey. I am so grateful and so indebted to you. May God, Father Almighty bless you both, sustain you, cause his face to shine upon you and grant unto you all that your hearts have desired. I love you so much and thank you for being a blessing to my life. Thank you so much for all the sacrifice you have made to take us, your children to school. Thank you so very much.*

## ACKNOWLEDGEMENTS

God, Father Almighty. Thank you for being faithful and always there for me, from the time I came to the University until now. Without your grace I would not have managed to finish this work and graduate from the University. I am so grateful and indebted to you beyond measure.

To you be the glory, honor and power, now and forever more. Thank you

I would like to extend my heartfelt gratitude to my supervisor Mrs Anne. C. Chanda for supervising my work. Mum, thank you very much for the parental spirit you exhibited in directing and supervising me from the beginning to the end. Thank you so much for always being there and for helping me to come up with this finished work. I am grateful and so indebted to you. May God almighty reward you and be with you in all your endeavors. Thank you.

To my lovely sisters Amongi and Atoo and my brother Owona, thanks for being there. You are a source of inspiration. I love you guys.

To Kenan, thanks for being a friend and always being there to encourage me at all times. I am so grateful for the prayers and for being a blessing to me. Thank you and God bless you.

To my room mate Roza, thank you so much for being there always. Thank you for letting me use your computer. I enjoyed the times we shared together. I wish all the best in all your endeavors. GOD BLESS YOU.

To Siwa and Sam, thanks for being there.

To my friends Aunt majorie, Kelvin, Lise, Malala, Mary, Priscilla, Langton, Chuma, Lydia and Lukali. You guys made my life on campus a blessing.

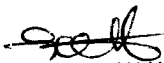
To Precious and Bester, you have been a blessing. Thanks for your humility and availability to be of service as whenever I came to your office. To you, I say a big GOD BLESS YOU.

All the deficiencies in this work are entirely mine.

**DECLARATION**

I, **Ejang Okello**, (Computer No. 99534479) do hereby solemnly declare that I am the author of this work entitled: **To What Extent Do Child Homecare Models Promote Children's Rights?** This Directed Research Paper is entirely based on own findings and that I have not in any respect used any person's work without acknowledging the same to be so.

I therefore bear absolute responsibility for the contents, errors, defects and any omissions herein.



.....  
SIGNATURE

9<sup>TH</sup> FEBRUARY, 2007

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DATE

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## **CHAPTER ONE**

### **1.0 INTRODUCTION**

There is little doubt that children constitute one of the most vulnerable groups in society. It is axiomatic that the child, on account of his or her physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, both before and after birth.<sup>1</sup> In order to have a full and harmonious development of his or her personality a child should grow up in a family environment and in an atmosphere of happiness, love and understanding.

The rights of children are becoming a major subject of concern at both global and national levels. Children are slowly being recognized as individuals with rights that ought to be enforced to secure their well being. The United Nations Convention on the Rights of the Child (CRC) is the first and comprehensive convention specifically targeted at addressing children's rights. Zambia is one of the many countries that has ratified the convention on the rights of the child (CRC) though it is not automatically enforceable in the courts of law until it is domesticated in Zambian legislation.

The purpose of this essay is to discuss the extent to which child homecare models such as orphanages and Cheshire homes promote children's rights. This essay will be divided into five chapters. This first chapter is foundational in nature defining

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<sup>1</sup> Chanda, W.A, **Gaps in the Law and Policy in the Implementation of the Convention on the Rights of the Child in Zambia**, Zambia Law Journal Volume 32, UNZA Press, 2000 Pg 1

human rights, the particular features and common characteristics and determining who a child is according to Zambian statutes and international conventions. In addition, the terms orphan and vulnerable child will be defined. Finally, the factors that lead to the vulnerability of a child will be given and a conclusion of the chapter will follow.

## 1.1 DEFINATION OF HUMAN RIGHTS

### a) Human Rights

There is no single definition to the term Human rights. In order to understand what this term means the term 'right' will be defined first. A right is defined as 'a proper claim to something, an interest or authority to do something'.<sup>2</sup> The English Jurist, Salmond thus defined a right as 'an interest recognized and protected by the law, respect for which is a duty and disregard for which is a wrong'.<sup>3</sup> The classic definition of human rights is that they are entitlements, which every person enjoys by virtue of being a human being. Conceived broadly, human rights are claims that every individual has or should have, upon the society in which one lives'.<sup>4</sup> They are universal, they accrue to every human being in every society, irrespective of geographical, historical, subculture, ideological, political, economic systems or stage of development. They do not depend on gender, race, class or status. Human rights are therefore claims as of right.<sup>5</sup> They cannot be taken away and are indivisible, for there is no hierarchy among the different types

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<sup>2</sup> Anyangwe, C. Introduction to Human Rights and International Humanitarian Law, 1<sup>st</sup> ed, UNZA Press, (2004). Pg 2

<sup>3</sup> Ibid Pg 2

<sup>4</sup> Gweshe .E. Protection of Children's Rights in Southern Africa: The Domestication of the Convention on the Rights of the Child in Lesotho, Malawi, South Africa, Swaziland, Zambia and Zimbabwe. SAHRIT, (2004) Pg 8

<sup>5</sup> Ibid Pg 8

of rights; civil, political, economic, social and cultural rights, these are all equally necessary for a life of dignity.

**b) Children's Rights**

The concept of human rights is the concept of the inherent dignity of all members of the human family as recognized in the Universal Declaration of Human Rights (UDHR) and the International Covenants of 1966, which also recognized the ideal of free human beings enjoying freedom from fear and war and being endowed with equal and inalienable rights indivisible and interdependent.

Therefore it follows that the children's rights can be defined as rights which 'belong to any individual as a consequence of being human, independently of any acts of law'.<sup>6</sup> Children's rights are also liberties, immunities and benefit which by accepted contemporary values, all children should be able to claim as of right in the society they live.

**1.2 PARTICULAR FEATURES AND COMMON CHARACTERISTICS OF HUMAN RIGHTS**

Human rights have always existed since the creation of the human race. They exist independently of the human society or the state. The State is thus not capable of creating human rights by law or otherwise, any more than it can create human beings. It can only recognize, protect and enforce human rights.

Recognition signifies that the rights are affirmed, legitimized and justified as

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<sup>6</sup>Anyangwe, C. Introduction to Human Rights and International Humanitarian Law, 1<sup>st</sup> ed, UNZA Press, (2004). Pg 3

entitlements and consequently incorporated and established in state's system of values.

The following are some of the particular features and common characteristics of human rights;

(i) Human Rights are inherent and universal<sup>7</sup>

Human rights are inherent (in born) in every human being. They exist everywhere and anywhere human beings are found. They do not vary in time and space. They do not differ depending on status, race, gender or age and are a birth right of all humans. Human rights are inherent; exist independently of the will of either an individual human being or a group of people. Human rights do not have to be given, bought, earned or inherited; they belong to the people simply because they are human.

(ii) Human Rights are inalienable, imprescriptible and fundamental

Human rights are in-born or innate rights in man and so cannot, in principle, be taken away from him or her by anyone, by any means and for whatever reason. They enjoy a prima facie prescriptive inviolability. They cannot be transferred, forfeited, waived or lost. They are claims as of right, not by appeal to grace, charity or love. They need not be earned or deserved.

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<sup>7</sup> Ibid Pg 22

(iii) Human Rights are claims upon the state.<sup>8</sup>

The state bears the burden to satisfy human right claims. The government must act to protect the individual's rights against private invasion and government officials must themselves respect human rights. Government must for example protect the individual assaulted by his or her neighbour. In human rights terms, the individual's claims are against the state and not against his neighbour.

(iv) Human Rights are distinguishable from other Rights.<sup>9</sup>

Two main features distinguish human rights from other rights. Firstly, human rights are not acquired or transferable; they inhere universally in all human beings throughout their lives, in virtue of their humanity alone. Secondly, the primary correlative duties concerning human rights fall on the state and its public authorities, not on other individuals.

(v) Human Rights are inter-dependent, indivisible and are not in a hierarchy.<sup>10</sup>

Human rights are conceived and perceived in a holistic manner. All categories of human rights are equally important and are indivisible and inter-dependent. For example, civil, political, economic, social and cultural rights are all equally necessary for a life of dignity.

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<sup>8</sup> Ibid Pg 23

<sup>9</sup> Ibid Pg 23

<sup>10</sup> Ibid Pg 23

### 1.3 DEFINITION OF

(A) A child; according to

(i) Zambian Statutes

The Zambian statutes do not have a single definition of who a child is. The variations as to how a child is defined in the Zambian statutes are based on the following:-

- (a) Attainment of majority status
- (b) The legal age of marrying
- (c) The minimum age of criminal liability
- (d) Age of sexual consent
- (e) Minimum age for employment
- (f) Minimum age for voting

Zambian law does not have a uniform definition of who a child is. For example, under article 24(2) of the constitution,<sup>11</sup> a young person means any person under the age of fifteen years. The Employment of Young Persons and Children Act<sup>12</sup> define a child as a person under the age of fourteen years. Under the Juvenile Act,<sup>13</sup> a child is defined as a person who has not attained the age of sixteen. The Marriage Act<sup>14</sup> provides that no one under the age of 21 should get married without the consent of their parents. All these variations in defining who a child is show the lack of consistency in the Zambian statutes thus causing uncertainty in having a proper definition of who a child is.

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<sup>11</sup> Chapter 1 of the Laws of Zambia.

<sup>12</sup> Chapter 274 of the Laws of Zambia, Section 2

<sup>13</sup> Chapter 53 of the Laws of Zambia

<sup>14</sup> Chapter 50 of the Laws of Zambia

(ii) International Conventions

Article 1 of the United Nations Convention on the Rights of the Child herein referred to as the CRC defines a child as a person under eighteen years of age, unless national laws recognize the age of majority earlier. In Zambia, the legal age of majority is attained at the age of 18 years.<sup>15</sup> The convention provides the most comprehensive legal policy framework for the protection of children and the respect of their human rights. Zambia is a signatory to the UNCRC and ratified it on 6<sup>th</sup> December 1991. It contains elaborate catalogues of civil, political, economic, social and cultural rights which rights are recognized in existing human rights instruments.

There are four basic principles which underline the UNCRC. First, as indicated earlier, all rights apply to all children without exception. The state is under an obligation to protect children from any form of discrimination and to take positive action to promote their rights.<sup>16</sup> Secondly, every child has the inherent right to life and the state has an obligation to ensure the child's survival and development.<sup>17</sup> Third, all actions concerning the child shall take full account of his or her best interests. The state is obliged to provide the child with adequate care when parents, or others who are responsible, fail to do so.<sup>18</sup> Lastly, the child

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<sup>15</sup> Gweshe E. Supra note 4 Pg 11

<sup>16</sup> G.A. Res. 44/25, 44 UN GAOR, Supp. (No. 49), UN DOC. A/44/49, at 166(1989), reprinted in 28 ILM 1448 (1989) (hereinafter CRC, Convention on the Rights of the Child), Article 3

<sup>17</sup> CRC Supra note 17, Article 6

<sup>18</sup> CRC Supra note 17, Article 3

has the right to express his or her opinion freely and to have that opinion taken into account in any matter or procedure affecting the child.<sup>19</sup>

#### (B) Orphan

An orphan is defined by the UNICEF as a child under the age of 15 years who has either lost his or her mother or both parents.<sup>20</sup> The former is called a maternal orphan whilst the later is called a total or double orphan. A child who has lost his or her father is called a paternal orphan.

#### (C) Vulnerable Child

A vulnerable child is 'one who is at risk of being harmed or of not leading a normal life due to the circumstances in which he or she finds himself or herself.'<sup>21</sup>

### **FACTORS THAT LEAD TO THE VULNERABILITY OF A CHILD**

The following are some of the factors that lead to vulnerability of a child:-

- 1) Age – The younger the child, the more vulnerable she is.
- 2) Sex of a child – Most females are more vulnerable to abuse which could either be sexual, physical or mental as compared to males.
- 3) The Age of the Guardian – The older the guardian, the more vulnerable the child is. Guardians in this sense entails uncle, aunt, cousin, stepfather or mother
- 4) The Kinship System – What this entails is whether one is matrilineal or patrilineal. In matrilineal society, the children belong to the wife meaning

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<sup>19</sup> CRC Supra note 17, Article 12

<sup>20</sup> Handout on Community Case for HIV/AIDS Course, **Key Concepts and Magnitude of OVC Situation**, Chikankata Health Services, AIDS Management and Training Services.(2000)

<sup>21</sup> Ibid Pg 1

when the wife dies, the children become double orphans because their father is chased away to go and remarry elsewhere thus making the child vulnerable.

## **CONCLUSION**

Children are slowly being recognized as individuals with rights that ought to be enforced to secure their well being. This chapter being foundational in nature defines the term 'human rights', bringing out its features and common characteristics. These features and characteristics of human rights include their inherent, universal, indivisible and inalienable nature. Moreover, the term child was defined according to the various Zambian statutes though it was noted that there is a lack of consistency in defining who a child is. Finally, the terms orphan and vulnerable child have been defined and the factors that lead to the vulnerability of a child have been discussed.

## **CHAPTER TWO**

### **2.0 INTRODUCTION**

It is necessary to defend the existence of children's basic needs, welfare and autonomy which manifest differently according to a child's developmental stage. These needs vary according to age, gender, the nature of vulnerability and specific risks<sup>1</sup>. What will vary from one culture to another is the way in which those needs are met, but not the existence of those needs or the child's right to satisfy those needs.

This chapter will mainly focus on discussing the psychosocial needs of children, the children's needs in relation to their rights focusing on a human rights approach and finally, an overview of the child's place in the Zambian society will be discussed.

### **2.1 PSYCHOSOCIAL NEEDS OF CHILDREN**

Children have physical, cognitive, emotional, spiritual and other needs<sup>2</sup>. Some needs are specific and quantifiable, such as nutritional requirements (which fall in the category of physical needs); others are less specific or easy to quantify, such as the need for stimulation (which falls in the category of emotional needs)<sup>3</sup>. Most people agree that all needs, at least the 'basic needs' of the child should be satisfied; and that the fulfillment of these needs represent valid claims. Children's needs can be represented by a wheel<sup>4</sup>, as all the needs are equally important and any missing segment representing unmet needs

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<sup>1</sup> Subbara, O. K. & Coury, D. - Reaching Out to Africa's Orphans: A Framework for Public Action, The World Bank Washington D.C., (2004) pg 21.

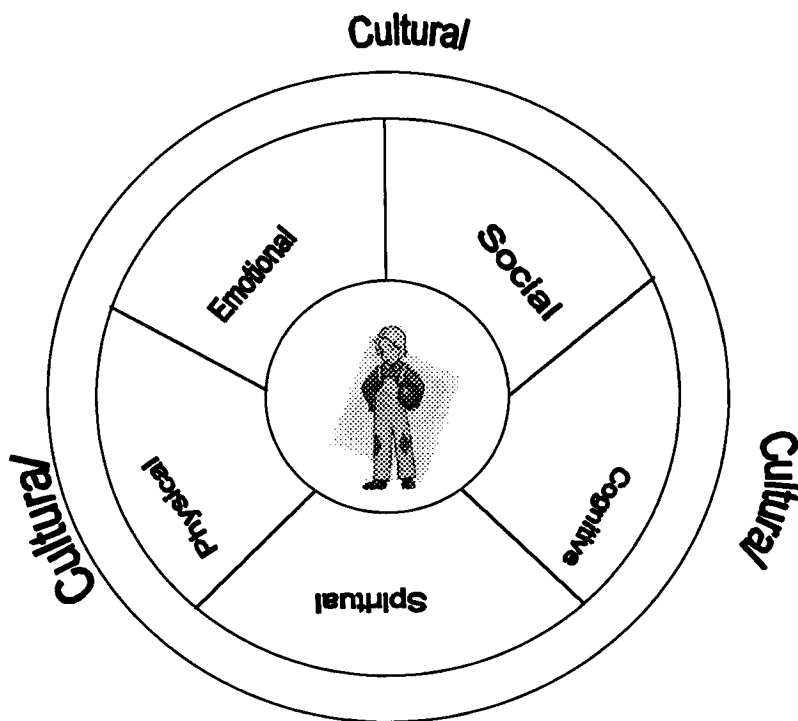
<sup>2</sup> Jonnson, U. – An approach to assess and analyse the health and nutrition situation of children in the perspective of the convention on the rights of the child., The International Journal of Children's Rights. Special Issue Vol. 5, No. 4, Kluwer Academic Publishers, (1997) pg 373

<sup>3</sup> Ibid pg 373

<sup>4</sup> Handout on community care for HIV/AIDS, Children's Needs. Chikakanta Health Services. AIDS Management and Training Services.2000

would cause the child to start malfunctioning, meaning the wheel would not be able to turn.

The wheel illustrating the various categories in which children's needs can be categorised is given below.



The various individual basic needs of children as illustrated in the wheel above are discussed in brief below.

### **PHYSICAL NEEDS**

Children have many physical needs which could be in financial or material form. Examples of physical needs include clothing, shelter, food, school related expenses, basic survival needs such as healthcare and hygiene. The simple provision of financial and physical needs is not sufficient for children to grow up to be healthy and well adapted people.

Children need to love and be loved, to accept and be accepted, to have security, encouragement and recognition from others, self-confidence and a positive self-esteem. They need to be able to appropriately trust themselves, others and the world around them. Children need to be heard, to speak to others and to feel that they count as individuals. They need to be listened to and to be understood before they can understand.

### **SOCIAL NEEDS**

Humans are essentially social beings, therefore, they have to live among one another. As the saying goes, 'no man is an island', which simply means that human beings need to feel that we belong to families, communities, and that they form part of a cultural and national group. This basic need of belonging, then gives us a sense of identity and belonging. Similarly, children need to socialize and feel the sense of belonging to a family or community. They should not feel different from others. Much of the children's behaviour is learnt within social situations with their parents, families, friends and communities.

### **COGNITIVE /MENTAL NEEDS**

There are three main categories of cognitive needs and these are;-

formal education: Children are taught from infancy what they need to know and then attend school to help them survive within an industrialised society;

informal education: Children learn by observing others, seeing what reactions others elicit, setting their own goals, dreams and ambitions, and learning what it takes to be a part of a particular community.

General skills: these include life skills such as I.G. As and the use of general knowledge.

## **SPIRITUAL NEEDS**

It is through children's beliefs in a higher being that they develop a sense of hope and of a future. Being able to pray in times of hardship enables them to cope better. It gives them a sense of purpose and also enables them to think beyond the hardships of the present life circumstances to life hereafter when they will be rewarded for having done the right thing and been moral individuals.

## **2.2 CHILDREN'S BASIC NEEDS: THE HUMAN RIGHTS APPROACH**

In a human rights approach, basic needs are met through processes that are participatory, empowering and sustainable. Some people perceive any deprivation as a violation of rights. This leads to an 'inflation' of rights which dilutes the particular potential of a rights based approach. All needs can be translated into outcomes or goals in order to satisfy the needs. Rights imply needs and goals, but needs and goals do not imply rights<sup>5</sup>. Countries that have ratified the convention on the rights of the child (CRC) recognise most of these needs and several others as rights.

Rights impose corresponding legal obligations on the state and moral obligation on parents and child-carers.

There are a number of differences between a needs approach and a rights approach. This is reflected in the language normally used to describe them. The most important difference between a basic needs approach and a human rights approach is that in the former, a child is most often seen as a 'passive object', a recipient of protection and care, while in the latter the child is recognised as an 'active and participatory subject'. A human rights approach means that the child is a citizen with citizen's rights. The opinion

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<sup>5</sup> Mackie, J.L., 'For a right based morality', in P. French et al (eds), *Studies in Ethical Theory*. Vol.33. University of Minnesota Press. 1978.

of the child must therefore always be taken into consideration in all matters affecting the child.

Needs are more or less basic whilst the rights are universal, and indivisible. Of course that does not rule out a prioritization of which violation should be addressed first. In a rights approach all must be included. Instead of monitoring the number who have their needs met, the number of those who have their rights violated is measured. In a basic needs reference is often made to the need to mobilize 'political will'. Lack of political will is often seen as a major constraint in the allocation of resources, necessary for one's fulfillment of basic needs of the people. If governments do not allocate adequate resources, they have chosen not to stand up to their obligations.

### **STATE OBLIGATIONS ARISING FROM THE UNCRC.**

The state is required to respect, protect and realize children's rights.

Obligation to respect: The state must refrain from interfering with the enforcement of the children's rights enshrined in the UNCRC.

Obligation to protect: The state must prevent the violation of children's rights by 3<sup>rd</sup> parties by, for, instance, ensuring that children are not abused in anyway, whether by institutions or individuals.

Obligation to realize: The state must take appropriate legislative, administrative, budgetary, judicial and other measures towards the full realization of children's rights by, for instance, providing free primary school education to all children.

These obligations carry economic responsibilities for the state. All articles of the convention have financial implications, either direct or indirect. Examples of rights in obvious financial obligations include that of disabled children to special care<sup>6</sup> and the rights of children to the highest attainable standard of health<sup>7</sup>, to social security<sup>8</sup> to a standard of living adequate for the child's physical, mental, spiritual, moral and social development<sup>9</sup> and to education<sup>10</sup>. In addition, the state is obliged to provide special protection and assistance to children who are temporarily or permanently deprived of their family environment or who in their own best interests, cannot be allowed to remain in that environment, the national government has the obligation to assume the role of protector of last resort for the orphaned children and for every child whose parents assume their normal responsibility for the children's upbringing.

The table below shows the main differences between the basic needs approach and human rights approach.

<b>NEEDS</b>	<b>RIGHTS</b>
In a needs approach a child is an object.	In a rights approach a child is a subject
Needs are met or fulfilled	Rights are realised, respected, protected and fulfilled
Needs can be met without sustainability	Rights must be realised with sustainability

<sup>6</sup> Article 23 of the Convention on the Rights of the Child

<sup>7</sup> Article 24 of the Convention on the Rights of the Child

<sup>8</sup> Article 26 of the Convention on the Rights of the Child

<sup>9</sup> Article 27 of the Convention on the Rights of the Child

<sup>10</sup> Article 28 of the Convention on the Rights of the Child

Needs can be ranked in a hierarchy; these are basic needs	Rights can not be organised in a hierarchy; there is nothing like a basic right
Needs do not necessarily imply duties	Rights imply duties
Needs are often associated with promises	Rights are always associated with obligations
Needs may vary among cultures	Rights are universal
Needs can be met through charity	Charity is obscene in a rights perspective
Meeting needs is often dependent on political will.	Realising rights is a result of political choice

### 2.3 THE PLACE OF A CHILD IN THE ZAMBIAN SOCIETY

The situation of children in Zambia continues to deteriorate. The economic down turn continues, with employment and incomes declining still further. Chronic malnutrition, in a country at peace and blessed with land and rainfall is commonplace. The vast majority of the population lives below the one dollar a day poverty datum line. The HIV/AIDS pandemic is affecting children. It is estimated that over 30,000 children a year are born HIV/AIDS positive, an estimated 765,000 currently orphaned and most children being psychologically affected by chronic illness and frequent deaths at the household level<sup>11</sup>. The scenario for children in Zambia, at least in the short term is bleak.

Currently, Zambia faces a silent crisis. The suffering of orphans and vulnerable children is contained within the confines of the family and the community on a daily basis, children suffer from malnutrition and childhood illnesses. Their suffering is seldomly

<sup>11</sup> GRZ Mid-term Review Main Report: Issues and recommendations. 1997-2001. GRZ/UNICEF Programme of Co-operation Preface II

seen outside their immediate surroundings, while those not affected continue without knowledge of the crisis as a whole. Increasingly, growing numbers of street kids are seen in the hubs of Zambian urban centres. Young boys fight to carry parcels to earn a few hundred Kwacha<sup>12</sup>, they guard cars day and night to earn extra money. Increasingly, young girls and boys sell their bodies in exchange for food. The daily pains of life are worn on their one and seen in the eyes of many children in Zambia.

Girls, particularly orphans, are often used to perform domestic service. For that reason, girl orphans are more likely than boys to be taken in by relatives or other families, a setting in which they are vulnerable to sexual abuse. These are also potential incentives, since the families hope to marry off the girl and receive the lobola or bride price.

## **2.4 CONCLUSION**

The state of children is of concern as they are the heritage of our nation. For the psychological needs of children to be met, various players will need to come in. Children on their own may not be able to satisfy or meet their own needs largely due to maturational factors which include lack of social skills, lack of information and knowledge, lack of physical strength, lack of economic power, all of which play a crucial role in influencing one's ability to access resources within his or her own environment. Adults on the other hand are extremely important to facilitate the emotional development of children.

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<sup>12</sup> The Kwacha is Zambia's Currency, currently exchanged at about 4,500 to the U.S. Dollar

Parents, the immediate family, the extended family, the community and the nation at large are all responsible for ensuring that the needs of children are met. This cuts across the various cultures and traditions of the people that live in Zambia.

It is however important to note that some needs are specific and quantifiable whilst others are less specific or easy to quantify. All needs, at least the basic needs of a child should be satisfied; and fulfillment of these needs represent valid claims. Countries like Zambia which have ratified the convention on the rights of the child should recognise most of these needs as rights. Thus, rights impose a correspondingly legal obligation on parents and child care-takers. A distinction must be made between children's needs and rights. Some of the differences between children's needs and rights are that firstly, needs may vary among cultures whereas rights are universal. Secondly, needs are often associated with promises whereas rights are always associated with obligations. Thirdly, needs are met or fulfilled and rights are realised. Moreover, needs do not necessarily imply duties whereas rights imply duties. Finally, in a human rights approach, a child is perceived to be a subject whereas in a needs approach a child is an object.

With regard to the place of a child in the Zambian Society, there is serious crisis that needs immediate action though society does not always hear the concerns of children. The truth of the pain and suffering of children in Zambia is known by anyone who goes out of his house because children beg from every part of the city, be it residential areas or town. However, even if these children look like they are attracting attention, they are seemingly not catching the attention of legislators. Children, especially those who are vulnerable, need laws that protect them adequately, otherwise the government will not be

bound to its obligation of defending them. The government needs to be empathetic to the plight of children since the future of any society lies in its children for its continued existence.

## **CHAPTER THREE**

### **3.0 INTRODUCTION**

The degree and type of vulnerability faced by children are shaped by the risk and stress characteristics that is to say their magnitude, frequency, duration and history to which they are exposed, and these tend to vary between countries. Most orphans in Zambia and the world over are vulnerable to different things such as abuse, child labor and sickness due to the circumstances in which they find themselves. An orphan is defined as 'a child whose parent or both parents are known to be dead'<sup>22</sup>. A vulnerable child on the other hand is defined as 'one who is at most risk of facing increased negative outcomes compared with the 'average' child in their society'<sup>23</sup>. The main negative outcomes are, among others things, severe malnutrition, above-average rates of morbidity, lower than average rates of school attendance and completion at primary level, and in all probability, a heavier work burden (both paid and unpaid child labor).

The magnitude of the orphan situation in Zambia is due to HIV/AIDS. Most of the parents to these orphans die because of HIV and the manifestation of AIDS related opportunistic infections such as TUBERCULOSIS (TB). However, it should be noted that not all orphans have lost their parents due to HIV/AIDS. Some have lost their parents due to natural cases, whilst others have lost their parents due to diseases such as malaria, cholera, dysentery, low and high blood pressure.

An orphan is exposed to different risks and these are categorized below;

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<sup>22</sup> International committee of the Redcross: Inter-agency guiding principles on unaccompanied and separated children. Geneva, Switzerland, (2004) Pg 13.

<sup>23</sup> Subbarao.K. & Coury.D. Reaching out to Africa's orphans: A framework for public action. The world bank, Washington D.C, (2004) Pg 2

### **(i) NATURAL**

These include heavy rainfall, landslides, earthquakes, droughts and strong winds. Most orphans in Zambia spend their nights in drainages, for example the street kids that are found loitering along the Great East Road opposite Manda Hill shopping complex Lusaka. Most of those children are orphans and are likely to be affected by natural occurrences such as rainfall. Since they do not have shelter, they get soaked when it rains thus making it easy for them to get infected with diseases such as Pneumonia.

### **(ii) HEALTH**

Due to lack of adequate medication and money to access medical services, most orphans are prone to suffer from diseases such as malaria and conditions such as malnutrition are common to them because they are not able to afford a nutritious diet.

### **(iii) SOCIAL**

Since most orphans runaway from their homes after their parents pass on , they often resort to being street kids. As street kids these children learn different habits from their friends which are both bad and good. In most cases these kids learn a lot of bad habits and are involved in violence and crime.

### **(iv) ECONOMIC**

Most orphans do not have a source of finance. Unemployment rates are high thus being a disadvantage to them since most of them do not have the relevant qualifications needed by most employers especially in cases where the orphan did not have an opportunity to attain a tertiary qualification.

Most of the orphans in Zambia are exposed to such risks and the government of Zambia has a mandate to ensure that the basic needs of the orphans are met having ratified the Convention on the Rights of a Child. Measures such as building child homecare models like as orphanages, drop-in centres, transit homes and SOS villages have been undertaken by the Zambia government to provide orphans with the basic needs.

All children are entitled to emergency care and provision for their basic subsistence. Assistance for separated children must adequately meet their basic needs at a standard comparable to the surrounding community and should be provided in a way that preserves family unity, keeps children with their relatives or other care givers and does not lead to separation.

In emergencies such as death of a parent or an occurrence of a flood, interim care must be provided for children separated from their families until they are reunited, placed with foster parents or other long term arrangements for care are made. This may include fostering, other forms of community based care such as drop-in centres, or institutional care. Child protection must be the overriding factor. All children need security, physical and emotional care in a setting that encourages their general development. Where possible, this care should be provided in families within the child's own community, with close monitoring. Interventions should build on and strengthen the systems that currently function in the community, and involve community leaders and local authorities unless their views are not in the best interests of the child. Moreover, children must be kept informed of the plans being made for them by their caretakers and their opinions taken into consideration. In addition, cooperation or networking between all children homecare models is essential, using agreed guidelines for family and community-based programmes or institutional care. The provision of interim care should be based on the

best interests of the child and should not be used to promote political, religious or other agenda. The focus must be on temporary care, with commitment to carrying out family tracing.

### **3.1 THE DIFFERENT TYPES OF ORPHANS AND VULNERABLE CHILD HOMECARE MODELS.**

Child homecare models are different strategies or approaches that have been designed and used to uplift the living standards of orphans and vulnerable children and have proved to be successfully workable. Various models of care have been developed to address the orphans and vulnerable children situation. These models include among others, orphanages, children's towns/villages, transit homes, drop-in centres, orphans and vulnerable children (ovc) camps and adolescent child headed households.

#### **(i)ORPHANAGES<sup>24</sup>**

This model is designed to cater for children without anyone to take care of them. Orphanages are by far the most formal type of institutions that care for orphans. Most orphanages are run by non-governmental organizations (NGOs), religious organizations or the government. Orphanages are registered with the department of community development and social services. In this setting, orphans are cared for by social workers, and their basic needs such as shelter, food, clothing and education are met. Orphanages are often believed to provide children with adequate basic care, although much depends on the quality of that care. Interaction between the community and the orphanage is not very common, especially when children are sent to the orphanage school rather than to

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<sup>24</sup>Handout on orphans and vulnerable children course, OVC Care models. Chikankanta Health Services. AIDS Management & Training Services.2004. Pg 1

the public school. An example of an institution in Zambia which prominently implements this model of care is Kasisi Orphanage in Lusaka, Zambia.

### **(ii)CHILDREN'S TOWN/VILLAGE**

Different concepts of the children's village have emerged in the recent past. The concept developed by SOS children's village usually consists of a group of about 10–20 houses, which form a community and provide a family like setting for vulnerable children. Each house is headed by an SOS-trained mother, who takes care of 8-10 children. Children grow up in conditions comparable to those in 'normal families' in the sense that biological siblings are not split up, children of different ages and gender become brothers and sisters, all children are enrolled in public schools, and all children are strongly encouraged to maintain contacts with the community. The village director (a male) supports the mothers and represents a father figure to the children. SOS children's villages are sponsored by an NGO, and as such they are not self-sustaining. These villages have often been criticized for separating children from the community and for providing a standard of material well-being so much higher than that of the surrounding community that it causes the children significant difficulties with social reintegration once they leave the village. Examples of these centres are the SOS home in Lusaka and Malambanyama children's town in Chibombo district in Zambia.

### **(iii)TRANSIT HOMES**

The transit homecare model is designed to help children in a crisis. Children that are brought to transit homes are those that have runaway from their homes and those that have been abused. It provides very short term institutionalization of children during

which basics for survival are provided. Children who go through the transit home are later referred to institutions that use other models of care such as drop in centres and orphanages. Services provided to orphans and vulnerable children in a transit home include basic support like food, clothing, shelter, spiritual support and education. Examples of organizations running transit homes in Zambia include childcare and Adoption society, The Ministry of Community Development and Social Services and the Young women Christian association (YWCA).

#### **(IV) DROP-IN CENTRES<sup>25</sup>**

This model offers care to orphans and vulnerable children (OVCS) in crisis such as street children and the abused. It is provided for over a relative long period of time. The focus is on rehabilitation of children's behaviour and reintegrating them into their families. The model meets basic needs of children whilst at the centre. Other services provided to OVCs include counseling for both children and their parents /guardians, life skills training, education on various issues and spiritual guidance. When children indicate forms of transformation and when their family environment is normalized, children are reintegrated into their families. In cases where families are not traced, these children are referred to orphanages as the last resort. Fountain of Hope in Lusaka, Zambia is one such organization that runs a successful drop-in centre model of care.

#### **(v) OVC CAMPS**

The camp model is designed to provide an opportunity for orphans and vulnerable children to learn various life skills through adventure. The model operates on the

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<sup>25</sup> Ibid Pg 2

principle of outward bound which encourages trust and team building through adventure and learning. This model of empowering children with skills is an old African tradition. Children are taken away from their usual home environment where there are pressures and responsibility for a period of five days to relax and express themselves to someone who listens to them. Children learn through playing as it fosters growth, skills development and provides them with relief from stress thereby enabling them to cope. Recreational activities such as canoeing and hiking are used to strengthen children's interpersonal skills. A comprehensive example where this model is implemented is the Salvation Army masiye camp in Zimbabwe.

#### **(vi) ADOLESCENT CHILD HEADED HOUSEHOLDS**

This model promotes the support of children by siblings. Children will remain together preferably in a family home. They are cared for by the eldest child with regular supervision and support of the caregiver's committee, the community and the local field officer. In some cases, the older child in a family is usually trained in parenting and other life skills to enable them manage their families.

### **3.2 COMMON ELEMENTS OF INSTITUTIONAL CARE**

Group care of children is provided in a variety of settings with different purposes, under social work, educational, medical and religious auspices. There are institutions for dependent and neglected children, residential treatment centres for emotionally disturbed children; detention homes, institutions for physically handicapped children and for mentally retarded children.

The institution that assumes this responsibility for a given group of children as its primary function is administering a child welfare service. As institutions begin to develop programs based on knowledge of child development and treatment of social and emotional problems, it becomes increasingly difficult to distinguish among the services for children traditionally classified as dependent, neglected, delinquent or emotionally disturbed.

Regardless of setting, certain basic principles about separation of children from their families, care of children living in groups rather than in families, planning of the daily group living program, treatment of social and emotional problems of children and parents, are the common elements in institutional care.

### **3.3 THE PURPOSE OF CHID HOMECARE MODELS OUTLINED**

The purpose of children home care models as a child welfare service should mainly provide group care and treatment for children whose needs cannot at the time be adequately met in a family; and to offer opportunities for a variety of experiences, through a group living program and specialized services, that can be selectively used, in accordance with an individualized plan for each child to;

- (i) foster normal maturation<sup>26</sup>,
- (ii) correct or modify the effect of previous unsatisfactory experiences,<sup>27</sup>
- (iii) ameliorate social and emotional problems interfering with the child's personality, development and functioning<sup>28</sup>.

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<sup>26</sup> Child welfare league of America: Standards for services of child welfare institutions, Newyork (1964).

Pg 15

<sup>27</sup> Ibid Pg 15

<sup>28</sup> Ibid Pg 15

### **3.4 THE CORE COMPONENTS OF CHILDREN HOMECARE MODELS**

Regardless of the type of model, all OVC homecare models should have certain core components that can be used differentially in accordance with the needs and problems of individual children. The following are some of the core components of children homecare models;

- (i) A variety of adults related to the child in a professional or staff capacity; with training and/or personal qualities qualifying them to deal with children. These would include among others, teachers, chaplains, maintenance staff, physicians, social workers and psychiatrists.
- (ii) Physical facilities owned and operated by an established organization.
- (iii) A group living program purposively planned to provide tolerance and understanding of feelings and behavior of unhappy or disturbed children.
- (iv) Specialized clinical services required for diagnosis, treatment and consultation in providing help for pathological conditions, social problems and personality disorders affecting the child's growth and functioning.
- (v) A plan formulated for each child as the basis for coordinated approach by all staff working with him, and for integration of his daily living experiences and the various specialized services the child may need.

### **3.5 CHILDREN FOR WHOM INSTITUTIONAL CARE IS APPROPRIATE**

Institutional care should be used for children whose relationship with their parents and whose family situation, level of development, social and emotional problems are such that they can benefit by group living experiences, together with the integrated treatment

planning and team approach that the institution can make available. Institutional care is appropriate for children who;

- (i) have suffered severe deprivation, rejection, neglect or abuse in their own families<sup>29</sup>,
- (ii) lack skills to function satisfactorily in a family or community including some handicapped children; or children who have not learnt to deal with reality or stress,
- (iii) are starved of affection and therefore make greater demands for constant affection<sup>30</sup>,
- (v) have lost one or both their parents and do not have any relative to look after them
- (vi) act out problems in a way that is dangerous to themselves or to others, and who require special protection, for example, children who have character disorders<sup>31</sup>.

### **3.6 CONCLUSION**

The orphan situation is real and is actually rising in Zambia. There are a lot of challenges being faced by orphans themselves and even those taking care of them. In most cases orphans are being taken care of by their grandmothers in cases where most of their aunts and uncles have passed on. Some orphans have had to stop school after the demise of their parents or guardians. However, not all hope is lost since the mushrooming of children homecare models such as orphanages which see to it that most the children's basic needs are met. Finally, what the Zambian government needs to do is to ensure that the need of these orphans are met and these children are enlightened as to what their rights are.

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<sup>29</sup> Ibid Pg 16

<sup>30</sup> Ibid Pg 16

<sup>31</sup> Ibid pg 16

## **CHAPTER FOUR**

### **4.0 INTRODUCTION**

HIV/AIDS has affected many individuals and the Zambian family structure may not be able to cope with the effects of losing family members. Children who have been left behind by their parents who died from the pandemic are left distraught, lost and confused. They are filled with grief, traumatized and cannot cope. Many have fought against the effects of HIV/AIDS by providing materialistic and financial support to children and the families that are caring for them. Many children who have lost their parents normally grieve. There are so many adverse effects of grief and these include among others:

- Violence
- Alcohol and drug abuse
- Prostitution and teenage pregnancy
- Child abuse (sexual, physical, neglect, emotional,)
- Mental illness
- Increased HIV/AIDS and STIs (sexually transmitted infections)

It is for this reason that vulnerable children should be provided with basic needs for them to enjoy life like any other child living with both parents who are able to provide for their needs. This support is a communal effort and every individual and organization working with children needs to get involved in assisting the children and addressing their psychosocial needs.

Group care of children is provided in a variety of settings such as orphanages, drop-in centers, SOS villages and child adoption centers. These have different purposes, which include among others, social work, correctional, educational, medical and religious auspices. These institutions encompass, dependant and neglected children; residential treatment centers for emotionally abused disturbed children; training schools and institutions for delinquent children; institutions for physically handicapped children, including blind, deaf and crippled children. Regardless of auspices, all group care services for children have child welfare aspects to the degree that, for a time, they assume some responsibility for providing conditions favorable to the growth and development of children who are not being reared in their natural families, and for helping children and their parents, no matter what other problems the children may have. These institutions or child home care models have various advantages and disadvantages and these are discussed below.

#### **4.1 ADVANTAGES OF CHILD HOME CARE MODELS**

##### **(i) GROUP LIVING EXPERIENCE**

Institutional life involves the child in a variety of groups and group living situations. A rich and stimulating group living program offers opportunities that the child can use selectively for a wide range of experiences in activities, in relationships and other children and adults, and in a variety of groups. Both educational and therapeutic factors are inherent in group living experience, and the interaction with other children and adults, can be used as enriching and as remedial experiences in the care and treatment of a child.

## **(ii) PLANNING AND INTEGRATION**

Since children in the institution are in continuous 24 hour care, it is possible to plan the day-by-day living experiences of each child and to integrate these with a variety of special services in a way that will result in harmonious approach to the child and that will stimulate improvement in his emotional health and social functioning. The program for each child can be purposefully planned to help him to develop competence in dealing with life situations and to learn to take responsibility for his own behavior through:

- Developing skills
- Experiencing success
- Discovering his creative abilities
- Learning acceptable social behaviors, habits, standards and manners
- Finding out what is involved in living together with others
- Having fun and enjoyment from everyday things that generate a feeling of hope and encouragement
- Relating to other boys, girls, adults, people of different ethnic or religious groups

The roles of child care workers such as social workers, chaplains, teachers, psychologists and other staff in relation to the child and to each other, can be coordinated and integrated with the child's daily living experiences.

### **(iii) FAVOURABLE ATMOSPHERE**

Through its staff, program and physical facilities, an institution can create an atmosphere favorable to children. The child can be helped to feel that;

- He is respected and understood as an individual
- People care about him/her and will take care of him/her
- He/she has a place where he/she can stay
- Adults tolerate unacceptable behavior without retaliatory, or rejecting him/her
- He/she can depend on someone for protection and guidance in controlling his impulses until he established his own controls
- He/she has someone to help him/her to work towards his/her future goals

The physical facilities and administrative structure of the child home care models can convey to the child a feeling of permanency and stability.

### **(iv) ROUTINES OF CONTROL**

The routines and regulations required when a number of people live together give a sense of continuity, regularity, and stability and provide a framework that can simplify living for a child. In choosing whether or not to conform to rules, the child learns expectations and consequences.

**(v) PEER GROUPS**

The experience of being part of a peer group can help the child to build social and personal strengths from being part of the group and experiencing group accomplishment. The group offers opportunities to:

- Form relationships easily without having to seek them out
- Find acceptance and status in a group in which he/she is not different from others.
- Take part in group decisions
- Develop sensitivity and be helpful to others
- Learn positive group values and standards of behavior
- Identify with the group and develop a feeling of being needed
- The peer group in the institution allows for a balance between participation in a group and solitary occupations, between demands to maintain relationships with either children or adults and being left alone. The child may select one, two or more of his peers with who he/she can form friendships.

**(vi) RELATIONSHIPS WITH ADULTS**

There is opportunity for a variety of interpersonal relationships with different staff members, with relative freedom from the emotional demands and expectations inherent in family living. The child has a choice of adults to whom he/she can relate, and among whom he can select models for what he would like to be. He may have

diluted relationships with many adults or may form a close relationship with only one adult according to his needs at a given time.

**(vii) THEY PROVIDE CHILDREN'S BASIC NEEDS**

Basic needs such as food, shelter and good health are met.

**4.2 DISADVANTAGES OF CHILD HOME CARE MODELS**

**(i) INADEQUATE FUNDING**

Most orphanages depend on donor funding for their continued existence. However, most of them have inadequate funding thus it becomes difficult for them to continue being sustaining and providing for the needs of the orphans and vulnerable children.

**(ii) SHORTAGE OF TRAINED PERSONNEL**

Most child home care models such as drop in centers do not have trained personnel. Most of the personnel in these institutions are volunteers and lack skill. This in turn does not benefit children who are taken to these institutions especially those that need counseling because the most of the members of staff are not trained in that area.

**(iii) DEPENDENCY**

Most children in home care models become so dependent on their adult care takers such that when they leave these institutions it becomes difficult for them to cope with the pressures of the outside world.

**(iv) LOW SELF-ESTEEM**

Since children in home care models have very few opportunities of exposure to the outside world, they tend to have a low self esteem.

**(v) FEELING OF LONELINESS AND HELPLESSNESS ON THE PART OF THE ORPHANS**

Most of the children in home care models are separated from their family members and it takes time for them to settle in the environment, thus causing them to be lonely.

**(vi) INADEQUATE SKILL**

There is an increase in community members building orphanages to accommodate orphans in the community but there is lack of knowledge related to institutional care for orphans.

**4.3 THE EXTENT TO WHICH CHILD HOMECARE MODELS PROMOTE CHILDREN'S RIGHTS**

Children need special protection despite the fact that they are entitled to the same rights as adults. Respect for Human rights begins with the way society treats its most vulnerable members who are in this case children. A caring society will give freedom and dignity to young people creating the conditions in which they can develop their full potential and so look forward to a full and satisfying adult life. Children are individuals; they have equal status with adults as members of the human family. They are neither possessions of parents, products of the state, nor people in the making. Governments have a moral responsibility to recognize the human rights of children as individual citizens at all levels

of society. In discussing the extent to which these child homecare models promote children's rights, the convention on the rights of a child (hereinafter referred to as the CRC) will be used. This instrument is an internationally accepted document when it comes to issues relating to the child and many states have ratified it, Zambia inclusive. The CRC integrates economic, social, cultural, civil and political rights, thus highlighting the indivisible and inter-dependent nature of human rights.

Despite the existence of children's rights, children suffer from poverty, homelessness, abuse, neglect, preventable diseases, unequal access to education and justice systems that do not recognize their special needs. These are problems that occur in both industrialized and developing countries, Zambia inclusive. Despite having these problems, child home care models have been formed and they offer services such as taking the children to school and ensure that their rights are promoted and realized by society and the nation as a whole.

These child home care models, which include among others orphanages and Cheshire homes promote children's rights to a very large extent. The CRC sets out the rights that must be realized for children to develop their full potential, free from hunger, want, neglect and abuse. It reflects a new vision of the child. Child home care models have appreciated this fact to such a great extent that they promote the rights of children and provide the children with the necessary basic needs. These home care models appreciate the fact that children are human beings who have rights and responsibilities. Moreover, these home care models consider children as individuals and members of the community and have recognized the urgency of their well being and development. For example, they

make clear the idea that the basic quality of life should be the right of all children, rather than a privilege enjoyed by a few.

The children's rights as provided for in the CRC are promoted by the home care models to a very large extent and these are explained below.

### **(a) THE RIGHT TO EDUCATION<sup>32</sup>**

The child has a right to education and the State's duties include ensuring that primary education is free and compulsory; to encourage different forms of secondary education and make them accessible to every child; and make higher education available to all on the basis of capacity. The rights to education, leisure and culture are not guaranteed by the Zambian bill of rights. Neither are they provided under the Education Act. However, two of the directive principles of state policy make reference to them. Under the directive principles, the state shall endeavor to provide equal and adequate educational opportunities in all fields and at all levels for all. The State is further required to take measures to promote the practice, enjoyment and development by any person of that person's culture, tradition, custom or language in so far as these are not inconsistent with the constitution.

Most of the child homecare models ensure that the children they keep go to school and attain a good qualification through education. For example, most of the children at Kabwata Orphanage are taken to school and the management at the orphanage ensures that the children go to school, get exposed, and learn different cultures as they interact

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<sup>32</sup> Article 28 of the CRC

with various member of society so that they can become confident and reliable members of society.

**(b) THE RIGHT OF A CHILD TO PRESERVE HIS/HER IDENTITY, INCLUDING NATIONALITY AND NAME<sup>33</sup>**

A child needs to have a name and preserve their Nationality even after being taken to various homecare models. Most of the children normally have their identity maintained. Identity is mostly changed when a child is adopted by a foreign national who would want the child to change his/her nationality. In cases, where the child is asked to change his/her nationality, the child has no option but to consent to what his guardian says. However, in most Catholic Cheshire Homes, when a child is adopted and baptized the child is given a Christian name.

**(c) THE RIGHT TO LIFE<sup>34</sup>**

Every child has an inherent right to life which no one should take away. If a child is killed, whoever kills him/her will be liable to face the law. The right to life in its broad sense includes provision of a healthy and safe environment, access to medical care, and minimum standards of food, clothing and shelter. The Human rights Committee, established under the international covenant on civil and political rights to which Zambia is a party, has stated that the protection of the right to life requires that States adopt positive measures. They should take all possible measures to reduce infant mortality and to increase life expectancy, especially by adopting measures to eliminate malnutrition and

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<sup>33</sup> Article 8 of the CRC

<sup>34</sup> Article 6 of the CRC

epidemics. Unfortunately, these are not binding rights under the constitution. Instead, they appear as directive principles of State policy, which are not justifiable but are merely a guide to the executive, legislature and judiciary in the implementation and development of national policies.

**(d) THE RIGHT TO BE REGISTERED IMMEDIATELY AFTER BIRTH**<sup>35</sup>

A child is entitled to a name immediately after birth and in case where a child is dumped by the mother, the people or home care model which takes on the child can give the child a name after completion of all legal proceedings at the social welfare services.

**(e) FREEDOM OF EXPRESSION, THOUGHT AND CONSCIENCE**<sup>36</sup>

As regards to freedom of expression, there is no law that requires parents or the State to take into account the views of the child when making decisions affecting the child. It is axiomatic that important decisions affecting children, including decisions relating to school institutions, place of residence, custody, guardianship and administration of estates, are invariably made within families.

A child should be left to express his/her views freely. Moreover, his/her care takers should ensure that the child expresses his/her views freely in all matters affecting the child and the views of the child are being given due weight in accordance with the age and maturity of the child. Most of these homecare models keep a lot of children and rarely give the children an opportunity to express themselves.

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<sup>35</sup> Article 7 of the CRC

<sup>36</sup> Article 12-14 of the CRC

**(f) THE RIGHT OF THE CHILD NOT TO BE SEPARATED FROM PARENTS AGAINST HIS/HER WILL**<sup>37</sup>

This is the general rule, except in cases where competent authorities such as the social welfare determine that such separation is necessary for the best interests of the child. In such instances a child is taken to a home care models where needs such as shelter and food will be provided for him or her.

**(g) THE RIGHT TO ENJOY THE HIGHEST ATTAINABLE STANDARD OF HEALTH**<sup>38</sup>

Article 24 of the CRC guarantees the child the right to the highest standards of health and medical care attainable. The State is required to place special emphasis on the provision of primary and preventive health care and public health education, and the reduction of infant mortality. Similarly, a homecare model is required to place special emphasis on the provision of primary and preventive health care and public health education, and the reduction of infant mortality. In addition, it should endeavor to create conditions under which children shall be able to secure adequate means of livelihood. It should provide clean and sage water, adequate medical facilities, and decent shelter for all children and clean well cooked and nutritious diet for the children. Most homecare models in Zambia, especially orphanages meet these standards. A good example is Kasisi orphanage where children have clean drinking water, well cooked food and decent shelter for them to rest in.

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<sup>37</sup> Article 9 of the CRC

<sup>38</sup> Article 24 of the CRC

**(h) THE RIGHT OF CHILDREN WITH DISABILITIES TO BE ACCORDED SPECIAL CARE AND ATTENTION<sup>39</sup>**

The CRC provides that a disabled child has a right to special care, education and training to help him/her enjoy full and decent life in dignity. Furthermore, the disabled child should be helped to achieve the greatest degree of self-reliance and social integration possible. Homecare models such as Saint Mulumba Cheshire Home in Choma, Zambia, accords special care and attention to the physically challenged (disabled) children so that they can enjoy a full decent life, in conditions which ensure dignity, promote self-reliance and facilitation of the children's active participation in the community.

**4.4 A CASE STUDY ON ST. ANTHONY BWAFWANO OVC HOME BASED CARE**

St. Anthony Bwafwano OVC home based care was established in 1998 and had a main objective to mitigate the impact of HIV/AIDS and to provide psychosocial support to orphans and vulnerable children (OVC). After being established, St. Anthony Bwafwano OVC Home Based Care conducted research to determine the extent of the HIV/AIDS problem. With a population of 5,000 people, 120 homestead out of 875 homestead were found to be directly affected by the HIV/AIDS pandemic. With this information, they were able to establish that within five years more than 720 children would probably become orphans. Distinctive behavioral patterns contributed to the spread of HIV/AIDS. These patterns included sexual exploitation, neglect leading people to the streets, abuse, suicide cases as a result of depression, women and wife battering, thefts, trauma and stigma and discrimination. These behavioral patterns brought out the underlining

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<sup>39</sup> Article 24 of the CRC

psychosocial issues that people were having as they tried to cope with the effect of HIV/AIDS pandemic. These psychosocial issues did not only affect the children, but also affected the parent/guardians, influential community members, leaders and caregivers. Many community members suffered from various cases of abuse, marital problems, grand parents and widows running households were either stigmatized, lacked self-esteem and were distressed about their circumstances.

All of these problems prompted inter-faith leaders, Community for Orphans and Vulnerable Children Committee (COVCC) leaders and influential community members to come together and combine their efforts to lobby for training in psychosocial support (PSS). The training from Scope-OVC equipped the members with knowledge and skill on how to handle PSS issues. Furthermore, they contacted the victim support unit who also assisted them with handling various abuse cases in their community.

In the following years, St. Anthony Bwafwano Home Based Care focused on developing their skills in psychosocial support, Scope-OVC offered training in psychosocial support and counseling that changed the lives of the community members. The impact of PSS through St. Anthony Bwafwano-OVC Home Based Care has brought about positive behavioral changes amongst the community members. The community school that has been established has trained teachers and helped the children cope and overcome any issues like inferiority complex. The teachers also lay a spiritual foundation and addressed any social, emotional and physical needs. Counseling services are provided to meet the psychological and social needs of the people within the community and these include:-

(b) **All Cases of abuse** - Neighbors, family members and friends are encouraged to report abuse cases. Community members are encouraged to report all cases of abuse and are educated on identifying cases of abuse and the steps they should take to report abuse cases.

(ii) **Marital problems** – Counseling is provided to caregivers who may have marital problems. It is important to know that marital problems also have adverse effect on the OVC they are looking after.

(iii) **Stigmatization and distress** – Grandparents heading homes may feel like withdrawing from the community and this sometimes leads to early deaths, which cases a double tragedy to the orphans. Grandparents can receive emotional support and counseling to lessen stigma and discrimination around them.

(iv) **Low self-esteem** – Widows lose confidence and have a difficult time in accepting their welfare status. Business tips are provided for improving their financial status hence, the orphans also benefits in that they learn the various ways of generating income.

(v) **Will Writing** – Under the Home Based Care program, chronically ill parents are counseled and are given lessons in Will writing and how they should secure their children's future. They are also encouraged to openly talk with their children and discuss any problems that they might have.

St. Anthony Bwafwano Home Based Care has established that care givers, teachers and influential individuals in the community need to work together to understand the behavioral patterns of OVC and the effects of HIV/AIDS on the whole community. St. Anthony Bwafwano OVC Home Based Care has had many achievements through their programs: The community's crime rate has reduced; there is a higher attendance of OVC in group activities with their peers; there is reduction in stigmatization and most important of all, caregivers and teachers are trained in psychosocial support.

#### **4.5 CONCLUSION**

The orphan situation is real and there are a lot challenges being faced by orphans and these include among others, financial handicaps, physical or sexual abuse, stigma and discrimination due to losing parents to HIV/AIDS. However, different child home care models have been formed to meet the needs of these children and also promote and protect their rights.

This chapter discusses among other things the advantages and disadvantages of home care models and also emphasizes the aspect of child home care models promoting children's rights to a greater extent. Various rights as provided for in the Convention on the Rights of a Child have been discussed. These child home care models promote children's rights such as the right to education, life, freedom of expression and the right of the child to enjoy the highest standards of health. Moreover, disabled children are also catered for and St. Mulumba, which is one of the Orphanages for the disabled in Choma, Zambia, recognizes the fact that the physically challenged child has a right to special care, education and to enjoy a full and decent life in dignity. Therefore, it provides and meets the needs of the physically challenged children at the orphanage.

## **CHAPTER FIVE**

### **5.0 CONCLUSION**

There is very little doubt that children constitute one of the most vulnerable groups in society. A child on account of his or her physical and mental immaturity needs special safeguards and care, including appropriate legal protection, both before and after birth. A number of provisions intended to secure a conducive family environment and alternative care for the child are stipulated in the Convention on the rights of a child (CRC). Article 5 requires the state to respect the rights and responsibilities of parents and the extended family to provide guidance for the child, which is appropriate to his or her evolving capacities.

The degree and type of vulnerability faced by children are shaped by the risk and stress characteristics, which include their magnitude, frequency, duration and history to which they are exposed and these tend to vary between countries. Most orphans in Zambia and the world over are vulnerable to different things such as abuse, child labor and sickness due to circumstances they find themselves. Orphans and vulnerable children are at a greater risk of facing increased negative outcomes, which include interalia, severe malnutrition, above average rates of morbidity and unpaid child labor.

Various models of care have been developed to address the orphans and vulnerable children situation. Child homecare models are one of the different strategies that have been designed and used to uplift the living standards of orphans and vulnerable children and have proved to be successfully workable. These models include orphanages, SOS

villages, transit homes, drop-in centers, orphans and vulnerable children camps and adolescent headed households. The purpose of child home care models as tools of child welfare services is mainly to provide group care treatment for children whose needs cannot be adequately met by their families whether immediate or extended. Children are placed in these homecare models mainly for safety, education, economic or social reasons. They offer the developmental care and support a child requires and often cannot even provide a reasonable standard of protection. Even, during emergencies, child home care models should be viewed as a last resort, to be used only when children genuinely have no one to take care of them. Moreover, these home care models ameliorate social and emotional problems interfering with the child's personality, development and functioning. In addition, these home care models have various advantages which include among others, proving children's basic needs such as food, clothing and shelter. Moreover the child home care models create an atmosphere favorable to the children, the experience of being part of a peer group helps the children to build social and personal strengths, the children have an adult they can relate with and among whom they select models for what they would like to be and they can learn at their own pace to trust and feel esteemed.

These homecare models promote children's rights to a very large extent, which includes among others the right to education, the right to life, the right for children to enjoy the highest standard of health and also the right of children with disabilities to accorded special care and attention. Children are taken to school so that they can attain a good qualification. Moreover, special emphasis is placed on the provision of primary and preventive health care. Physically challenged children are also catered for in that special

care is given to them so that they can enjoy a full decent life, in conditions which ensure dignity and promote self-reliance and facilitate the children's active participation in the community.

## **5.1 RECOMMENDATIONS**

### **SHORT TERM**

- Child homecare models must continuously provide adequate basic needs to the children; these needs include among others food, clothing and shelter.
- The list of children's rights guaranteed in the constitution should be expanded to accommodate as many rights as possible and violation of these rights should be justiciable in the courts of law.
- The government should adopt adequate measures to prevent and eliminate prevailing social attitudes, cultural and religious practices which hamper the realization of the rights of the child. Among measures that can be taken are the following; launching systemic information and awareness campaigns aimed at the public, to create a deeper understanding of the Convention on the Rights of a Child and of the need to respect and protect children's rights.

### **MEDIUM TERM**

- Planning, preparation and serving of food in the homecare models should be in accordance with the nutritional needs of children under care.
- Every child should be helped to secure the maximum amount of formal education of which he/she is capable, and be provided with the optimum conditions in which he can receive, and benefit from his school experience.

- All admissions must be screened and documented. Each child should have a file containing all the information about him/her.
- Where possible, every institution should have a reunification of children with their families as one of its key objectives. It must be made clear that care will be provided for a short period while reunion with the family is being sought.
- There is need for reforms both in law and policy in order to facilitate full implementation of the convention in Zambia. It is imperative to bring all laws that pertain to children in to one piece of legislation.
- The government should adopt appropriate economic and social policies that will give priority to the welfare of the child.
- Arrangements for further tertiary education or training should be made for children whose school records show that they can benefit from such educational opportunities.

### **LONG TERM**

- Children in homecare models should enjoy the same civil and political rights as the rest of the child population. Monitoring should take place to ensure that these rights are respected.
- A child's day in the homecare model should be structured in such a way that children have time to go to school, do household chores, rest and engage in some recreation. The children should be taught appropriate life skills to enable them survive in society.
- The government should institute a comprehensive monitoring and coordinating mechanism for all areas covered by the convention. Such a mechanism would

enable the government to assess the progress achieved and the difficulties encountered in the implementation of the guaranteed rights at the local and national levels.

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