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SCHOOL OF LAW

**AN ANALYSIS OF THE EFFECTIVENESS OF THE HUMAN RIGHTS COMMISSION
HRC'S COMPLAINT MECHANISMS IN SERVING MARGINALIZED COMMUNITIES IN
ZAMBIA: A FOCUS ON RURAL POPULATIONS, PERSONS WITH DISABILITIES,
AND THE ECONOMICALLY DISADVANTAGED**

SCHOOL OF LAW

BY

SUSAN MULAKO

LLB19115792

**An obligatory essay submitted to the University of Lusaka in partial fulfillment of
the requirement for the award of the Bachelor of Laws (LLB) Degree**

2025

DECLARATION

I, **SUSAN MULAKO**, do declare that this dissertation titled **“AN ANALYSIS OF THE EFFECTIVENESS OF THE HUMAN RIGHTS COMMISSION HRC'S COMPLAINT MECHANISMS IN SERVING MARGINALIZED COMMUNITIES IN ZAMBIA: A FOCUS ON RURAL POPULATIONS, PERSONS WITH DISABILITIES, AND THE ECONOMICALLY DISADVANTAGED”** which is hereby submitted to the School of Law at the University of Lusaka as part of the requirements for the award of the Bachelor of Laws (LLB) degree, is my original work and has not previously been submitted for the award of a degree at this or any other tertiary institution.

The sources that have been used or quoted have been indicated and duly acknowledged as complete reference

Signature.....S. Mulako.

Date: 14/11/2025

SUPERVISOR'S RECOMMENDATION

I, Prof. K. M. Zimba, do recommend that this dissertation titled "AN ANALYSIS OF THE EFFECTIVENESS OF THE HUMAN RIGHTS COMMISSION HRC'S COMPLAINT MECHANISMS IN SERVING MARGINALIZED COMMUNITIES IN ZAMBIA: A FOCUS ON RURAL POPULATIONS, PERSONS WITH DISABILITIES, AND THE ECONOMICALLY DISADVANTAGED" done under my supervision, be admitted by the university, I have checked it carefully and I am satisfied that it meets necessary requirements pertaining to the format laid down by the university regulations.



Ms.

(Supervisor)

20/11/2025

(Date)

DEDICATION

"This dissertation is dedicated to Divine Lubuto, my beloved son, this achievement is for you. May it be a reminder that with hard work, determination, and love, anything is possible. May it inspire you to pursue your own dreams and ambitions. I love you deeply and take immense pride in being your mother and look forward to seeing you shine just like your name signifies."

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ABSTRACT

This study examined how effective the Human Rights Commission's (HRC) complaint mechanisms are in serving marginalized communities in Zambia, focusing on rural populations, persons with disabilities, and the economically disadvantaged. The HRC, established under Article 230 of the Constitution and guided by the Human Rights Commission Act No. 4 of 2024, is responsible for protecting and promoting human rights for all citizens. However, many vulnerable people still face barriers such as long distances to HRC offices, lack of awareness, complicated procedures, and limited access to information in suitable formats. These challenges make it difficult for people in rural areas and those living with disabilities or poverty to seek justice when their rights are violated.

The study found that although the legal framework is strong, its practical implementation is weak. Sections 6, 16, 18, 19, and 21 of the Human Rights Commission Act provide the Commission with powers to investigate complaints, act on its own initiative, and make recommendations, but these powers are not fully used. The complaint process remains centralized in major towns, making it hard for rural and poor citizens to access. Persons with disabilities also struggle due to lack of support such as sign language interpreters and accessible materials. The study concludes that the HRC's complaint system is not fully effective for marginalized communities.

The research recommends decentralizing HRC offices to district and community levels, simplifying complaint procedures under Sections 18 and 19, increasing awareness in local languages, and strengthening enforcement of recommendations under Section 21. It also suggests proactive investigations using the powers under Section 18 and greater collaboration with local leaders and organizations. If implemented, these measures would make the complaint system more accessible, fair, and inclusive, helping the HRC fulfil its mandate of ensuring justice for all Zambians, especially those who are most vulnerable.

CHAPTER ONE

1.0 INTRODUCTION

In Zambia, the Human Rights Commission (HRC) is tasked with safeguarding human rights and ensuring justice for all people, especially those who suffer from human rights violations. This includes investigating complaints, reporting on human rights issues, and helping people seek justice. However, there is growing concern that the Commission's complaint system is not reaching some of the most vulnerable groups in the country. These groups include people living in rural areas, persons with disabilities, and the economically disadvantaged. For these marginalized communities, accessing the HRC's complaint mechanisms can be difficult, limiting their ability to seek justice and protection of their rights.¹

Despite the HRC's important role, several challenges prevent these groups from fully benefiting from its services. These challenges include a lack of clear processes to help these people file complaints, limited knowledge about how to use the system, and a lack of offices outside the capital city, Lusaka. In addition, the complaint process can be too complicated for people who are less educated or who do not have the financial resources to navigate the system.² As a result, many of the most vulnerable people in Zambia are unable to get the help they need from the HRC.

This study focuses on understanding how effective the HRC's complaint mechanisms are for marginalized communities in Zambia. It aims to look at the obstacles that prevent these groups from accessing the HRC's services and to examine how the Commission's processes can be improved. The goal of this research is to suggest ways to make the complaint system more accessible, fair, and effective for those who need it most.

The research will therefore, examine the legal and institutional barriers that affect marginalized groups, analyze the HRC's complaint procedures, and identify areas that require change to make the system work better for everyone. By understanding these

¹ Zambia. (2020). World Report 2020. Human Rights Watch. Retrieved from <https://www.hrw.org/world-report/2020/country-chapters/zambia> (Accessed on 09/04/2025)

² Darweish, M. (2010). The Role of National Human Rights Commissions in Conflict and Post-Conflict Societies: Lessons from Nepal and Sierra Leone. *International Journal of Transitional Justice*, 4(2), 239-258

issues, the study hopes to offer practical solutions that could help improve the HRC's services and make sure that vulnerable communities can access justice.

1.1 BACKGROUND OF THE STUDY

Zambia has a diverse population, with many people living in rural areas and a significant number living with disabilities. According to the most recent estimates, the prevalence of disability in Zambia remains higher in rural areas than in urban centres. The 2015 National Disability Survey the latest full survey available found that 8.5 per cent of people in rural areas live with a disability, compared to 7.2 per cent in urban areas.³ While the 2022 Census of Population and Housing included the Washington Group questions to produce an updated disability prevalence, the detailed rural-urban breakdown from that exercise is still pending publication.⁴ In the meantime, a February 2024 United Nations Development Coordination Office report notes that persons with disabilities now comprise nearly 11 per cent of Zambia's total population of around 20.6 million.⁵

Despite the Human Rights Commission's (HRC) mandate to serve all Zambians, its physical footprint remains concentrated in six urban centres Lusaka, Ndola, Mongu, Kasama, Chipata and Livingstone leaving entire provinces without convenient access points for filing complaints.⁶ Although the HRC has introduced an online complaints-registration form to broaden its reach, many rural residents lack reliable internet access or the required formal identification and medical certification to complete the process, effectively barring them from seeking redress.⁷ Combined with the cost and complexity of travel to urban offices, these procedural and logistical hurdles mean that marginalized populations, particularly those in remote areas and those with limited financial or educational resources, continue to face significant obstacles in accessing the Commission's services. Persons with disabilities face additional barriers. Many public buildings are not accessible, and there is often a lack of information in formats suitable

³ Situational Analysis of The Rights of Persons With Disabilities Zambia November 2023
https://unprpd.org/new/wp-content/uploads/2024/03/CountryBrief_Zambia.pdf (accessed on 11/04/2025)

⁴ Ibid

⁵ [UN in Zambia doubles down on disability inclusion | United Nations DCO](#)

⁶ Situational Analysis of The Rights of Persons With Disabilities Zambia November 2023
https://unprpd.org/new/wp-content/uploads/2024/03/CountryBrief_Zambia.pdf (accessed on 11/04/2025)

⁷ Zambia. (2020). World Report 2020. Human Rights Watch. Retrieved from <https://www.hrw.org/world-report/2020/country-chapters/zambia> (Accessed on 09/04/2025)

for people with visual or hearing impairments. Social stigma and discrimination further discourage them from seeking help. Even though Zambia has laws and policies to protect the rights of persons with disabilities, these are not always effectively implemented.⁸

In many parts of Zambia, especially in villages and small towns, people still face serious problems with human rights. These may include violence, discrimination, unfair treatment by police, lack of access to education or health services, and more. The people most affected are often those who are poor, live in far places, or have disabilities.⁹ Even though the HRC is meant to help everyone, these groups often don't get the help they need.

One of the biggest problems is that many people do not know that the HRC exists or what it does. Others may know about it but do not know how to report a problem. There are also very few HRC offices outside Lusaka, making it hard for people in rural areas to get help. In some cases, people must fill in forms or write letters, but they may not know how to do that or may not afford to travel to the offices. This makes the complaint system hard to use for many people.

Persons with disabilities also face their own challenges. Some may have trouble moving from place to place, while others may not be able to speak, hear, or see. If the HRC does not provide special support, like sign language interpreters or information in braille, it becomes even harder for these people to report their problems. Also, some people fear speaking out because they feel powerless or do not trust that their complaints will be taken seriously. Lastly, the HRC's leadership and systems do not seem to fully include people from these groups. If people with disabilities or rural community leaders are not part of the planning, their needs may be ignored. Even though the HRC sometimes works with other groups to promote human rights, there is no clear way to make sure these partnerships actually help those who need it most.¹⁰ This study wants to understand how

⁸ <https://diggers.news/local/2017/10/16/persons-with-disabilities-lack-legal-protection-hrc> (accessed on 11/04/2025)

⁹ Central Statistical Office, Ministry of Community Development & Social Services, University of Zambia, SINTEF Technology and Society, & UNICEF Zambia. (2018). *Zambia National Disability Survey 2015*. <https://www.unicef.org/zambia/reports/zambia-national-disability-survey-2015>

¹⁰ Central Statistical Office, Ministry of Community Development & Social Services, University of Zambia, SINTEF Technology and Society, & UNICEF Zambia. (2018). *Zambia National Disability Survey 2015*. <https://www.unicef.org/zambia/reports/zambia-national-disability-survey-2015>

these issues affect access to justice in Zambia. It aims to show the gaps in the complaint system and suggest how the HRC can do better to serve those who have been left behind.

1.2 STATEMENT OF THE PROBLEM

The Human Rights Commission (HRC) of Zambia is responsible for investigating human rights violations, reporting on human rights issues, and providing ways for people to seek justice. This is stated in Section 6 of the Human Rights Commission Act No. 4 of 2024. However, marginalized groups such as persons with disabilities, people in rural areas, and the poor face difficulties when trying to use the HRC's complaint system. Even though the HRC has a broad role, it is unclear whether its complaint mechanisms effectively serve these vulnerable groups.

The main challenges come from legal and institutional barriers. The law does not provide clear steps to help marginalized groups easily file complaints. Institutionally, problems such as lack of awareness, few offices outside Lusaka, and complex procedures make it hard for these groups to seek help. The process often requires formal documents, which can be difficult for people with little education or financial resources.

In addition, while Section 6(g) of the Act allows the HRC to work with other institutions to protect human rights, there is no clear system to ensure that this cooperation helps marginalized groups. Also, the **Commission's leadership as described in Section 7** does not require members to represent these communities. This may result in their concerns being overlooked.

This study will focus on whether the HRC's complaint mechanisms are accessible and effective for marginalized groups. It will examine how legal and institutional factors affect access to justice for these groups. The research will also explore how the HRC's procedures and lack of representation impact marginalized people and what changes are needed to improve the system. The goal is to find ways to make the complaint process easier, fairer, and more inclusive for those who need it most.

1.3 RESEARCH OBJECTIVES

1. To examine the international legal framework governing human rights complaints and its relevance to the HRC's mechanisms in Zambia.
2. To examine the legal and institutional barriers that hinder marginalized groups in accessing the HRC's complaint mechanisms.

3. To analyze the effectiveness of the HRC's complaint procedures in serving marginalized communities, focusing on rural populations, persons with disabilities, and the economically disadvantaged.

1.4 RESEARCH QUESTIONS

1. What is the international legal framework governing human rights complaints, and how does it relate to the HRC's complaint mechanisms in Zambia?
2. What legal and institutional barriers prevent marginalized groups from accessing the HRC's complaint mechanisms?
3. How effective are the HRC's complaint procedures in serving marginalized communities, specifically rural populations, persons with disabilities, and the economically disadvantaged?

1.5 SIGNIFICANCE OF THE STUDY

This study is important because it will show if the HRC is helping the people who need it the most. Many people in rural areas, those with disabilities, and those with little money face problems when trying to report human rights issues. If the HRC's complaint system is not working well for them, they may continue to suffer in silence. This research will help suggest simple ways to improve the system so that everyone in Zambia, no matter where they live or how much money they have, can get justice and enjoy their rights.

1.6 SCOPE OF THE STUDY

This study will look at how well the Human Rights Commission (HRC) helps people who are often left out, such as those living in rural areas, people with disabilities, and the poor. It will focus on how easy or hard it is for these groups to report human rights problems to the HRC. The study will look at the way the complaint process works, where the offices are located, how people can get help, and what stops people from using the system. It will not look at other human rights groups or court systems, but only the HRC's complaint process in Zambia.

1.7 LITERATURE REVIEW

Gorik Ooms' ¹¹work emphasizes the ethical importance of addressing health inequalities, particularly in developing countries. He argues that neglecting health disparities is a moral

¹¹ Ooms, G. (2007). Realizing the Right to Health: The Offense of its Dereliction. *Journal of Human Rights*, 6(1), 51-63.

failing and advocates for global cooperation to ensure the right to health for all. His focus is on international obligations and the need for a global framework to support health equity. In contrast, this study differs from the alluded Scholars position as it concentrates on the Human Rights Commission (HRC) of Zambia, examining the practical challenges it faces in serving marginalized communities within the country. While Ooms discusses global health rights, this research looks at how a national institution can better protect various human rights, including but not limited to health, for vulnerable populations in Zambia.

Murray¹² studied national human rights institutions (NHRIs) across Africa. They explained that many of these institutions are weakened by political pressure, making it hard for them to investigate freely. Their main focus was on how NHRIs in different African countries could work together and strengthen their power through regional cooperation. While Murray et al. looked at several African countries and talked about big regional issues, this study differs from Murray work as it looks only at Zambia. It focuses on whether the Human Rights Commission in Zambia is really helping poor people, disabled people, and those in rural areas. It also looks closely at the problems these people face when they try to file complaints.

Alston¹³ wrote about how national human rights institutions act as a bridge between the government and the people. He pointed out that these institutions can either help or hurt people's rights depending on how close they are to the government. His work focused on the relationship between NHRIs and the state and how this impacts human rights. This study agrees with Alston's idea that the relationship between the HRC and the government matters. Its difference is premised on the fact that it looks more deeply into how the HRC's complaint system works in Zambia. It also asks whether poor people and those with disabilities or living far from cities can actually use this system. Alston focused more on theory and broad challenges, while this study looks at real-life problems on the ground.

¹² Murray, R., et al. (2001). The Role of National Human Rights Institutions at the International and Regional Levels: The Experience of Africa.

¹³ Alston, P. (2005). National Human Rights Institutions: Friends or Foes? *European Journal of International Law*, 16(5), 1-32.

Broomhall ¹⁴focused on the International Criminal Court (ICC). He showed how the ICC challenges government power by holding individuals accountable for crimes like genocide or war crimes, even in their own countries. His work was about global justice and how international law can limit state power. This study differs from the alluded scholars work as it does not look at international law or courts like the ICC. Instead, it looks at a local human rights body in Zambia and how it handles complaints from ordinary people. It focuses on simple things like how easy it is to report abuse, whether the complaint process works, and if people in remote areas can access it.

Christof Heyns ¹⁵explores the role of the African Commission on Human and Peoples' Rights (ACHPR), a regional body that oversees human rights across multiple African nations. He highlights the ACHPR's efforts in promoting and protecting human rights continent-wide. This study differs from Christofs work in that focuses on the HRC of Zambia, a national institution, and its effectiveness in addressing human rights issues within Zambia, especially for marginalized groups. While Heyns discusses regional mechanisms, this research delves into national-level challenges and solutions.

In his study, **Siame** ¹⁶examined how effectively the Human Rights Commission (HRC) in Zambia promotes and protects human rights. He found that while the HRC has made efforts in areas like inspecting prisons and educating the public, it faces challenges such as limited resources and a lack of presence in rural areas. This means that people in remote communities often struggle to access the HRC's services. This study differs by focusing specifically on how these challenges affect marginalized groups like rural populations, persons with disabilities, and the economically disadvantaged.

Banda-Chalwe, Nitz, & de Jonge,¹⁷ research shows the difficulties people with mobility impairments face in Zambia due to inaccessible buildings and environments. For example, some individuals have to crawl up stairs to access services, which is both

¹⁴ Broomhall, B. (2003). *International Justice and the International Criminal Court: Between Sovereignty and the Rule of Law*. Oxford University Press.

¹⁵ Murray, R. (2004). *National Human Rights Institutions: Implementing Human Rights*. Ashgate Publishing.

¹⁶ Siame, I. B. (2013). *A critical analysis of the effectiveness and efficiency of the Zambian Human Rights Commission in the promotion and protection of human rights in Zambia*. University of Zambia.

¹⁷ Banda-Chalwe, M., Nitz, J. C., & de Jonge, D. (2014). *Disability Research in Zambia: A Scoping Review*. Scandinavian Journal of Disability Research.

physically challenging and humiliating. Such barriers prevent persons with disabilities from participating fully in society. This study builds on this by examining how these physical barriers specifically hinder access to the HRC's complaint mechanisms.

Centre for Human Rights,¹⁸ a workshop hosted by the Centre for Human Rights identified several barriers that persons with disabilities face in accessing justice in Zambia. These include inaccessible court procedures, lack of sign language interpreters, and materials not available in Braille. Such issues make it difficult for persons with disabilities to engage with the justice system. Our study focuses on how these specific barriers affect the ability of marginalized groups to file complaints with the HRC. While the above studies have identified various challenges faced by marginalized groups in Zambia, this research differs from the alluded authors as it specifically focuses on the effectiveness of the HRC's complaint mechanisms in serving these communities. We aim to understand the unique barriers that rural populations, persons with disabilities, and the economically disadvantaged face when trying to access the HRC's services, and propose solutions to make the complaint process more inclusive and accessible.

Benjamin J. Goold¹⁹ examines the relationship between police accountability and human rights protection, emphasizing the need for mechanisms to hold law enforcement accountable. His work is centered on the criminal justice system and preventing abuses by police. In contrast, the difference of this study and Benjamin work is that this study seeks to investigate the broader challenges faced by the HRC of Zambia in protecting human rights for marginalized communities, including legal and institutional barriers. While Goold focuses on law enforcement, this research addresses a wider range of human rights issues and institutional effectiveness.

Bruce Broomhall²⁰ discusses the International Criminal Court (ICC) and its role in holding individuals accountable for serious crimes, challenging traditional notions of state sovereignty. His work is centered on international justice and the prosecution of crimes

¹⁸ Centre for Human Rights. (2022). Disability Rights Unit hosts workshop on research findings that will enable equal access to justice for persons with disabilities in Zambia. *Centre for Human Rights*.

¹⁹ Goold, B. J. (2013). *Police Accountability and Human Rights*. Routledge.

²⁰ Broomhall, B. (2003). *International Justice and the International Criminal Court: Between Sovereignty and the Rule of Law*. Oxford University Press.

like genocide and war crimes. This study, differs from the alluded authors work as on the it focuses on the HRC of Zambia and its challenges in promoting and protecting human rights within the country. While Broomhall addresses international criminal accountability, this research examines national human rights mechanisms and their accessibility to marginalized populations.

1.8 METHODOLOGY OF THE STUDY

This study will use a qualitative research approach to explore how the Human Rights Commission's (HRC) complaint mechanisms serve marginalized communities in Zambia, particularly those in rural areas, persons with disabilities, and the economically disadvantaged. The research aims to understand the challenges these groups face in accessing the HRC's services and how the Commission can improve its mechanisms to promote inclusiveness and accessibility.

Data will be collected through focus group discussions and document analysis. The focus groups will bring together members of the target communities to share their collective experiences and challenges in using the HRC's services, while document analysis will involve reviewing reports, policies, and other materials from the HRC and related organizations. Purposeful sampling will be used to select participants most likely to provide relevant information. The collected data will be analyzed thematically to identify recurring patterns, challenges, and possible solutions to improve access to justice for marginalized communities.

1.9 ETHICAL CONSIDERATIONS

Before conducting interviews and focus groups, the study will ensure that participants fully understand the purpose of the research. They will be asked for their consent to participate, and their privacy and confidentiality will be respected throughout the study. The study will also make sure that no one feels pressured to participate, and they will be free to withdraw at any time.

CHAPTER TWO

THE INTERNATIONAL LEGAL FRAMEWORK GOVERNING HUMAN RIGHTS COMPLAINTS AND ITS RELEVANCE TO THE HRC'S MECHANISMS IN ZAMBIA

2.0 INTRODUCTION

This chapter is based on examining the international legal framework that governs human rights complaints and showing how it relates to the Human Rights Commission (HRC) in Zambia. Human rights protection is not only a national issue but also an international concern. States, including Zambia, are bound by several international and regional treaties that set out standards for the protection of rights and provide mechanisms through which individuals and groups can seek remedies when their rights are violated. Understanding these frameworks is important because they guide how the HRC in Zambia carries out its mandate and ensures that the country respects its international obligations.

2.1 THE UNITED NATIONS FRAMEWORK

2.1.1. Universal Declaration of Human Rights (UDHR)

The Universal Declaration of Human Rights (UDHR), adopted in 1948, is a foundational document in international human rights law, establishing fundamental rights and freedoms for all individuals. **Article 3**²¹ guarantees the right to life, liberty, and security of person, affirming that everyone is entitled to live free from arbitrary deprivation of life, unlawful detention, or violence. Article 5 prohibits torture and cruel, inhuman, or degrading treatment or punishment, emphasizing the protection of human dignity and obliging states to prevent abuse and hold perpetrators accountable.

Article 21(1)²² secures the right to participate in government through free and fair elections, underscoring democracy and self-determination as essential for protecting human rights. Together, these articles highlight the UDHR's role in guiding state conduct, promoting accountability, and ensuring the protection of civil, political, and personal

²¹ Universal Declaration of Human Rights, United Nations General Assembly, 10 December 1948.

²² Ibid

freedoms. They form part of the broader international human rights framework, influencing subsequent treaties and shaping global norms for the treatment of individuals.

2.2 THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR, 1966)

The International Covenant on Civil and Political Rights (ICCPR) was adopted by the United Nations in 1966 and came into force in 1976. It is one of the most important treaties in the field of human rights because it sets out civil and political freedoms that every person is entitled to. These include the right to life under Article 6,²³ freedom of speech Article 19²⁴, freedom of thought, conscience and religion under Article 18²⁵, the right to a fair trial in Article 14, and the right to take part in public affairs and elections in Article 25.²⁶ The ICCPR also prohibits slavery under Article 8, torture and cruel or degrading treatment in Article 7, and arbitrary arrest or detention in Article 9.²⁷ These protections are especially important because they deal with the everyday freedoms and dignity of individuals. By signing and ratifying the ICCPR, Zambia agreed to make sure that its laws, institutions, and practices respect these rights.

One of the key parts of the ICCPR is Article 2(3),²⁸ which requires states to provide effective remedies when people's rights are violated. This means that if someone's rights under the Covenant are breached, the state must make sure there are laws and institutions in place to investigate the violation, punish those responsible, and provide compensation or other forms of justice to the victim. For Zambia, this duty directly connects to the work of the Human Rights Commission (HRC), which was established to receive and investigate human rights complaints at the national level.

The provisions of the ICCPR are directly linked to the research gap because they establish rights and obligations that Zambia must guarantee but which remain difficult to

²³ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171.

²⁴ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171.

²⁵ Ibid

²⁶ Ibid

²⁷ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171.

²⁸ Ibid

access for marginalized groups through the Human Rights Commission's complaint mechanisms. For instance, Article 6 (right to life), Article 7 (prohibition of torture and degrading treatment), Article 9 (freedom from arbitrary arrest and detention), and Article 14 (right to a fair trial) all require that effective remedies be available when these rights are violated. Article 2(3) reinforces this obligation by mandating that states create accessible and effective institutions to ensure justice, including investigation of violations, punishment of offenders, and remedies for victims. In Zambia, the HRC is the institution meant to fulfill this role, yet the current legal and institutional framework undermines its accessibility for vulnerable groups. The absence of simplified procedures, the concentration of offices mainly in Lusaka, and the lack of representation of marginalized communities in the Commission's leadership make it difficult for these groups to invoke their ICCPR rights in practice. For example, a person with disabilities in a rural area who faces discrimination or unlawful detention may find it nearly impossible to navigate the HRC's formal complaint requirements, despite the protections guaranteed under Articles 7, 9, and 14 of the Covenant. Similarly, the right to freedom of expression under Article 19 or the right to participate in public affairs under Article 25 may be curtailed without adequate remedies when barriers prevent effective engagement with the HRC. This gap between Zambia's international obligations under the ICCPR and the actual functioning of the HRC's complaint mechanisms highlights the central issue of this study: whether the HRC can serve as an effective channel for marginalized groups to claim their Covenant rights, and what reforms are necessary to make these remedies truly accessible and inclusive.

2.2.1 The Human Rights Committee and Zambia's Obligations

The ICCPR also created a monitoring body called the **Human Rights Committee**, which is established under Article 28.²⁹ The Committee is made up of independent experts who oversee how states comply with the Covenant. Its main role is to review reports that states must submit under Article 40,³⁰ explaining how they are protecting the rights in the

²⁹United Nations Human Rights Committee, established under Article 28 of the ICCPR.

³⁰ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171.

Covenant. After reviewing these reports, the Committee gives recommendations, also called "concluding observations," which states are expected to follow.

In addition to the reporting process, the Human Rights Committee can also hear individual complaints. This is possible through the Optional Protocol to the ICCPR, which gives individuals the right to bring a case before the Committee if their rights have been violated and if they have already tried and failed to get justice through domestic courts.³¹ Although the Committee's decisions, called "views," are not legally binding in the same way as a court judgment, they carry strong moral and political weight, and states are expected to comply with them.³²

Zambia is a party to the ICCPR, which means it has accepted these obligations. This requires Zambia to ensure that domestic laws and institutions, such as the Human Rights Commission, are consistent with the rights set out in the Covenant. For example, when the HRC investigates a case of unlawful detention or restriction of free speech, it must interpret these rights in line with both the Zambian Constitution³³ and the ICCPR.

The ICCPR therefore plays a guiding role in Zambia's human rights system. It not only sets the standards that the country must follow but also gives citizens an international platform to seek justice if national remedies fail. The link between the ICCPR and the HRC is especially important because it ensures that Zambia's human rights system is not working in isolation but as part of a wider international framework.

This discussion is particularly relevant because it shows that Zambia's human rights system is not self-contained but linked to a wider global framework. The ICCPR provides benchmarks against which Zambia's compliance can be measured, while the Human Rights Committee offers oversight that strengthens accountability. For Zambian citizens, it also means that when domestic remedies are weak or ineffective, there is an international platform to seek justice. Thus, the ICCPR and the Human Rights Committee serve as both a standard-setting and accountability mechanism, ensuring that Zambia's commitments to human rights are more than just theoretical obligations.

³¹ International Covenant on Civil and Political Rights, Optional Protocol (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 302.

³² Office of the UN High Commissioner for Human Rights, 'Human Rights Committee: Monitoring civil and political rights' <https://www.ohchr.org/en/treaty-bodies/ccpr> accessed 17 August 2025.

³³ Constitution of Zambia (Amendment) Act No 2 of 2016.

2.3 THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (ICESCR, 1966)

The International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted in 1966, is a key treaty that protects the economic, social, and cultural rights of individuals. Unlike civil and political rights, which often require immediate action, economic, social, and cultural rights are implemented progressively. This means that states may take steps over time to fully achieve these rights, depending on the resources they have.³⁴

The ICESCR guarantees several fundamental rights. For example, the right to work allows every person to have the opportunity to earn a living under fair conditions. The right to education ensures that all individuals can access primary education and have opportunities for higher levels of learning. The right to health requires states to make healthcare services available, accessible, and affordable. The right to social security means that governments must provide support to those who cannot work due to age, disability, or unemployment. These rights are intended to improve the living conditions of all people and create equality in society.

Article 2 of the ICESCR³⁵ is particularly important because it obliges states to take deliberate, concrete, and targeted steps to ensure that these rights are progressively realized. This includes passing laws, adopting policies, and creating programs that make rights like healthcare, education, and social security accessible to everyone. While states may not immediately achieve full enjoyment of all these rights, they must show consistent progress and make measurable efforts.

2.3.1 Monitoring and Complaints under the ICESCR

To ensure that countries respect the ICESCR, the treaty established the **Committee on Economic, Social and Cultural Rights (CESCR)**.³⁶ This committee monitors how states implement the covenant. Every country that has ratified the ICESCR, including Zambia, must submit regular reports to the CESCR explaining what measures they have taken to

³⁴ International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966, United Nations General Assembly Resolution 2200A (XXI).

³⁵ Ibid

³⁶ United Nations, Office of the High Commissioner for Human Rights (OHCHR). *Committee on Economic, Social and Cultural Rights*. Available at: <https://www.ohchr.org/en/treaty-bodies/cescr>

respect, protect, and fulfill economic, social, and cultural rights. These reports allow the committee to review progress, give recommendations, and advise on improvements.³⁷

In addition to reporting, the ICESCR includes the **Optional Protocol**, which allows individuals and groups to submit complaints directly to the CESCR if they believe their rights have been violated and if they have already exhausted local remedies.³⁸ This complaint mechanism strengthens the protection of rights because it provides an avenue for people to seek justice at the international level.

The CESCR also issues **general comments**, which are explanations of how specific rights should be interpreted and applied. These comments guide states in implementing their obligations more effectively.³⁹ For example, the CESCR has clarified what is required for the right to education to be meaningful, such as making schools accessible, free of discrimination, and of good quality. Similarly, for the right to health, the CESCR emphasizes that health services must be available to all and should not discriminate against vulnerable groups.⁴⁰

For Zambia, the ICESCR and the CESCR mechanisms are very important. They guide the government and institutions like the Human Rights Commission in ensuring that social and economic rights are respected. They also provide citizens with knowledge and tools to hold the government accountable when rights such as education, health, and social security are not properly provided.

2.4 CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW, 1979).

This treaty is often described as the international bill of rights for women. It sets out in **Article 2**⁴¹ that states must take all necessary steps to remove discrimination against women in their laws, policies, and practices. This includes ensuring that women have equal rights in education, employment, politics, and family life. In addition, **Article 17 of**

³⁷ Ibid

³⁸ Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, 2008, United Nations General Assembly Resolution 63/117.

³⁹ CESCR General Comment No. 14 (2000): *The Right to the Highest Attainable Standard of Health (Article 12 of the Covenant)*, UN Doc. E/C.12/2000/4.

⁴⁰ CESCR General Comment No. 13 (1999): *The Right to Education (Article 13 of the Covenant)*, UN Doc. E/C.12/1999/10.

⁴¹ Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted 18 December 1979, entered into force 3 September 1981, United Nations Treaty Series, vol. 1249, p. 13.

CEDAW ⁴²establishes the **Committee on the Elimination of Discrimination against Women (CEDAW Committee)**, which is made up of independent experts. This Committee reviews reports from states and gives recommendations on how they can improve protection for women. Zambia, as a party to CEDAW, must submit regular reports and show what steps it has taken to protect women from discrimination as we shall see in the next chapter. The HRC in Zambia plays a role by advising government on compliance and monitoring whether women are truly benefiting from these protections in practice.

2.5 CONVENTION ON THE RIGHTS OF THE CHILD (CRC, 1989)

Article 4 of the CRC ⁴³clearly states that governments must take all measures, using the maximum of their resources, to ensure children enjoy their rights. These rights include access to education, health, protection from abuse, and the right to participate in matters affecting them. The CRC also created the **Committee on the Rights of the Child**, which examines reports submitted by states and gives recommendations. Zambia has ratified the CRC, and this means the HRC has a responsibility to check if children in Zambia are being protected in line with both local laws and the international obligations under this treaty. For example, the HRC monitors issues such as child labor, access to schooling, and juvenile justice, and can use the standards in the CRC to push for reforms when children's rights are violated.

2.6 CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (CAT, 1984).

This treaty is very important because it deals with one of the most serious human rights abuses: torture. **Article 22 of CAT**⁴⁴ gives individuals the right to make direct complaints to the **Committee against Torture** if they believe they have suffered torture and their own government has not provided a remedy. This is a strong tool of accountability because it allows victims to go beyond their country's legal system. For Zambia, being a party to CAT means that torture is strictly prohibited and must be criminalized under

⁴² Ibid

⁴³Convention on the Rights of the Child (CRC), adopted 20 November 1989, entered into force 2 September 1990, United Nations Treaty Series, vol. 1577, p. 3.

⁴⁴ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), adopted 10 December 1984, entered into force 26 June 1987, United Nations Treaty Series, vol. 1465, p. 85.

national law. It also means that the HRC must investigate allegations of torture, monitor detention facilities such as prisons and police cells, and recommend measures to prevent such abuses.

2.7 THE AFRICAN REGIONAL HUMAN RIGHTS FRAMEWORK

Besides the UN system, Zambia is part of the **African Union (AU)** and is bound by the **African Charter on Human and Peoples' Rights (ACHPR, 1981)**. The Charter protects both individual rights, such as the right to life under **Article 4**⁴⁵ and freedom of expression (Article 9), and collective rights, such as the right to development under **Article 22**.⁴⁶

The main enforcement body is the **African Commission on Human and Peoples' Rights (ACHPR)**, created under Article 30 of the Charter. The Commission receives complaints from individuals, groups, and NGOs alleging violations by states. It investigates, makes recommendations, and can refer cases to the **African Court on Human and Peoples' Rights**, established under the Protocol to the Charter (1998).

Importantly, **Article 26 of the ACHPR**⁴⁷ requires states to establish national institutions that promote and protect human rights. This provision gives a clear legal basis for Zambia's Human Rights Commission and shows that the HRC is part of a larger African system of human rights enforcement.

2.8 THE AFRICAN CHARTER ON THE RIGHTS AND WELFARE OF THE CHILD (1990)

The African Charter on the Rights and Welfare of the Child (ACRWC) was adopted in 1990 and came into force in 1999. It is the first regional treaty in the world to focus entirely on children's rights. Unlike the United Nations Convention on the Rights of the Child (CRC), this Charter takes into account the unique African context, such as harmful cultural practices, poverty, and conflicts that affect children.

The Charter protects a wide range of rights, including the right to education under **Article 11**,⁴⁸ the right to health and survival under **Article 14**⁴⁹, and the right not to be subjected

⁴⁵ African Charter on Human and Peoples' Rights (ACHPR, 1981).

⁴⁶ Ibid

⁴⁷ Ibid

⁴⁸ African Charter on the Rights and Welfare of the Child (ACRWC), adopted 11 July 1990, entered into force 29 November 1999, OAU Doc. CAB/LEG/24.9/49 (1990).

⁴⁹ Ibid

to harmful social and cultural practices such as child marriage and female genital mutilation under Article 21.⁵⁰ It also places duties on children themselves, such as respecting parents and elders under Article 31⁵¹, showing that African culture values responsibility alongside rights.

An important feature of the ACRWC is the creation of the African Committee of Experts on the Rights and Welfare of the Child under Article 32.⁵² This body monitors implementation, considers state reports, and receives complaints about violations. Zambia ratified the ACRWC in 1992, which means that the Human Rights Commission has a duty to promote and protect children's rights in line with this treaty.

2.9 THE PROTOCOL TO THE AFRICAN CHARTER ON THE RIGHTS OF WOMEN IN AFRICA (MAPUTO PROTOCOL, 2003)

The Maputo Protocol, adopted in 2003, is one of the most progressive instruments on women's rights in Africa. It expands on the African Charter by addressing specific issues faced by women. It guarantees rights such as equality before the law under Article 8⁵³, the right to dignity under Article 3, the right to health and reproductive rights under Article 14, and the right to participate in political and decision-making processes under Article 9.⁵⁴

One of the most significant parts of the Protocol is Article 14, which recognizes a woman's right to control her fertility, choose whether to have children, and access family planning services. The Protocol also explicitly calls for the elimination of harmful practices, including female genital mutilation and child marriage under Article 5.⁵⁵

Zambia ratified the Maputo Protocol in 2006, making it legally binding at the national level. The Human Rights Commission therefore has a duty to monitor and ensure that women in Zambia enjoy the protections set out in this Protocol. It also provides women and

⁵⁰ African Charter on the Rights and Welfare of the Child (ACRWC), adopted 11 July 1990, entered into force 29 November 1999, OAU Doc. CAB/LEG/24.9/49 (1990).

⁵¹ Ibid

⁵² Ibid

⁵³ African Union, Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol), adopted 11 July 2003, entered into force 25 November 2005.

⁵⁴ Ibid

⁵⁵ Ibid

advocacy groups with a strong legal framework for challenging discriminatory laws and practices.

2.10 HUMAN RIGHTS COMPLAINT MECHANISMS

International and regional treaties have created systems that allow human rights complaints to be handled in different ways. These systems are mainly divided into **reporting mechanisms, individual complaints, and special investigations**. Each of these plays an important role in ensuring that states like Zambia are held accountable when rights are violated.

Reporting Mechanisms are the most common method of monitoring compliance with treaties. Under this system, states are required to send regular reports explaining how they are protecting human rights. For example, Article 40 of the **International Covenant on Civil and Political Rights (ICCPR)**⁵⁶ requires Zambia to submit reports to the Human Rights Committee showing the steps it has taken to implement civil and political rights. In the same way, Article 62 of the **African Charter on Human and Peoples' Rights**⁵⁷ requires states to submit reports every two years to the African Commission. These reports allow international bodies to question states, point out weaknesses, and give recommendations. In Zambia, the **Human Rights Commission (HRC)** plays a central role in preparing and contributing to these reports by collecting data, highlighting violations, and monitoring how the government responds to recommendations. Without this process, many abuses could go unnoticed at the international level.

Individual Complaints provide a direct way for citizens to seek justice. Many treaties allow individuals to file complaints to international bodies when their rights have been violated and when they have already tried, but failed, to get justice in their own country. For example, under the **Optional Protocol to the ICCPR**,⁵⁸ Zambians can petition the UN Human Rights Committee if domestic remedies are not effective. Similarly, under **Article 55 of the African Charter**,⁵⁹ individuals and groups can submit communications to the African Commission. These complaint mechanisms are very important because they give hope to victims who feel powerless at the national level. They also act as

⁵⁶ International Covenant on Civil and Political Rights (ICCPR), 1966.

⁵⁷ African Charter on Human and Peoples' Rights, 1981.

⁵⁸ Optional Protocol to the International Covenant on Civil and Political Rights, 1966.

⁵⁹ African Charter on Human and Peoples' Rights, 1981.

pressure tools, since negative findings against a state can bring international attention and even affect its reputation. The HRC in Zambia often assists victims by guiding them on how to prepare complaints or by linking them to international organisations that can represent them.

Special Procedures and Investigations are another important mechanism. At the UN level, the **Human Rights Council** has created positions such as Special Rapporteurs, independent experts, and working groups. These experts can investigate allegations of violations, visit countries, and prepare reports. In Africa, the **African Commission** can also carry out investigations under **Article 46 of the African Charter**.⁶⁰ These special procedures are vital because they can act quickly when there are serious or widespread violations. The HRC in Zambia often works as a bridge by submitting information to these bodies, cooperating with their fact-finding missions, and making sure that Zambia's human rights situation is accurately presented.

2.11 RELEVANCE OF THE INTERNATIONAL FRAMEWORK TO ZAMBIA'S HRC

The Universal Declaration of Human Rights (UDHR) is relevant because it sets the basic standards for human rights that all countries should follow. Articles 3, 5, and 21(1) protect life, prevent torture, and guarantee the right to participate in government. These rights provide a foundation for Zambia's human rights system and guide the Human Rights Commission (HRC) in promoting and protecting fundamental freedoms for all citizens. They also give marginalized groups a clear standard to demand respect and protection of their rights.

The International Covenant on Civil and Political Rights (ICCPR) is important because it makes these rights legally binding for Zambia. Articles such as 6, 7, 9, 14, 19, and 25 require the government to provide remedies when rights are violated. The Human Rights Committee monitors compliance and allows individuals to file complaints if national remedies fail. This framework is relevant to the research because it highlights gaps in how marginalized groups access justice through the HRC, showing the need for more accessible and inclusive complaint mechanisms.

⁶⁰ African Charter on Human and Peoples' Rights, 1981.

The International Covenant on Economic, Social and Cultural Rights (ICESCR) focuses on rights like education, health, work, and social security. It is relevant because it obliges Zambia to take practical steps to progressively achieve these rights, and the Committee on Economic, Social and Cultural Rights monitors compliance. For the HRC, the ICESCR guides actions to protect vulnerable groups from being excluded from basic services and helps ensure that economic and social rights are respected.

Regional instruments, such as the African Charter on Human and Peoples' Rights (ACHPR), the African Charter on the Rights and Welfare of the Child (ACRWC), and the Maputo Protocol, are relevant because they reflect Africa-specific challenges, including cultural practices and gender inequality. They create mechanisms for complaints, monitoring, and reporting, linking the HRC to a broader system of accountability. These frameworks ensure that Zambia is held responsible both internationally and regionally, providing marginalized groups with additional avenues to claim their rights effectively.

International and regional complaint mechanisms are particularly relevant because they allow individuals to seek justice beyond national borders. They complement the HRC's work and help ensure that human rights violations are addressed even when domestic systems fail.

2.12 CONCLUSION

The international legal framework provides important mechanisms for protecting human rights through treaties, reporting procedures, and complaint systems at both the UN and African levels. For Zambia, these frameworks directly influence the work of the Human Rights Commission by giving it guidance, strengthening its monitoring role, and linking it with global and regional systems of accountability. Although challenges remain in resources, awareness, and enforcement, the international framework remains vital in ensuring that the HRC can effectively protect and promote human rights in Zambia. The continued relevance of these frameworks shows that Zambia's obligations are not only domestic but also international, and the HRC must keep aligning its work with these global and regional standards.

CHAPTER THEREE

THE LEGAL AND INSTITUTIONAL BARRIERS THAT HINDER MARGINALIZED GROUPS IN ACCESSING THE HRC'S COMPLAINT MECHANISMS

3.0 INTRODUCTION

Chapter Three examines the legal and institutional barriers that make it hard for marginalized groups in Zambia to access the Human Rights Commission's complaint mechanisms. While the Constitution and the Human Rights Commission Act give the HRC strong powers to protect human rights, in practice many people cannot use these rights fully. Rural communities, the poor, persons with disabilities, and other vulnerable groups face problems such as long distances to offices, lack of awareness, complicated procedures, and limited representation in leadership. This chapter shows how these barriers prevent marginalized groups from filing complaints, participating in inquiries, and receiving meaningful remedies. The gap between what the law promises and what people actually experience is significant because it weakens the enforcement of human rights and undermines public trust in the justice system. When legal protections exist only on paper, marginalized groups remain exposed to abuse without effective recourse, which defeats the purpose of establishing human rights institutions like the HRC.

3.1 THE CONSTITUTION OF ZAMBIA AND THE HUMAN RIGHTS COMMISSION OF ZAMBIA IN PROTECTING AND PROMOTING HUMAN RIGHTS

The Zambian **Constitution** is supreme or highest law of the land, otherwise referred to as the *Grund norm* of the land and no other law may be in conflict with it. It is the primary source of law because it is the supreme law of Zambia and if any other law is inconsistent with it, that other law, to the extent of such inconsistency, is null and void as per **Article 1(1)** of the Constitution Zambia.⁶¹ This relationship between the constitution and other laws was ably explained in the case of **Thomas Mumba v The People** in which Mr. Justice DK Chirwa had this to say:

⁶¹ Act No. 2 of 2016.

In countries like Zambia where there is a written constitution, the Constitution is the supreme law, any other laws are made because the Constitution provides for their being made; and are therefore subject to it. It follows therefore that unless the Constitution is specifically amended, any Act that is in contravention of the Constitution is null and void.⁶²

This case confirms the position that the validity of all other laws depends on the extent to which such laws are consistent with the provisions of the constitution. The case of ***Christine Mulundika & 7 Others v The People*** is another case which confirms the position that the validity of all other laws depends on their conformity with the constitution.⁶³ The Court further held that the invalidity and the constitutional guarantee of the rights of assembly and expression precluded the prosecution of persons and the criminalisation of gatherings in contravention of section 5(4) of the Act.

Under international law, Zambia has ratified or acceded to several human rights treaties and instruments, such as the African Charter on Human and Peoples' Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.⁶⁴ By ratifying or acceding to these treaties and instruments, Zambia has undertaken to respect, protect and fulfill the human rights obligations contained therein, and to report periodically to the relevant treaty bodies or mechanisms on its compliance.⁶⁵

Part III of the Zambian Constitution is titled "Protection of Fundamental Rights and Freedom of the Individual" and it contains 24 articles (from Article 11 to Article 34) that guarantee various civil and political rights for the people of Zambia.⁶⁶ Some of these rights include the right to life, personal liberty, freedom of expression, freedom of assembly,

⁶² (1984) ZR, 38

⁶³ (1995) ZR,

⁶⁴ <https://zm.usembassy.gov/2021-country-reports-on-human-rights-practices-zambia/> (Accessed on 12/09/2025)

⁶⁵ (Nani) Jansen Reventlow, YO., Curling, R. (2019). State Obligations in the African System. In: Kadelbach, S., Rensmann, T., Rieter, E. (eds) Judging International Human Rights. Springer, Cham. https://doi.org/10.1007/978-3-319-94848-5_12

⁶⁶ Chapter 1 of the laws of Zambia

freedom of religion, protection from discrimination, protection from inhuman treatment, protection of privacy, access to justice, and access to information.⁶⁷ The HRC is mandated to promote and protect human rights for all people in Zambia through investigations of human rights violations, rehabilitation of victims of human rights abuses, education of communities and advocacy for policy and legal changes influenced by evidence based research. As we are going to see from the foregoing.

3.2 THE HUMAN RIGHTS COMMISSION UNDER THE ZAMBIAN CONSTITUTION

The Human Rights Commission of Zambia (HRC) is established under Article 230 of the Constitution to promote and protect human rights for all citizens. The Constitution directs the HRC to have offices in each province and gradually extend to districts to make its services accessible to every citizen, including those in remote areas. However, this provision has not been effectively implemented. The HRC's main offices remain concentrated in Lusaka, with only a few provincial offices operating, and most districts lack any physical presence of the Commission.

This failure to decentralize limits the ability of marginalized communities to seek help or report abuses. People in rural areas must travel long distances to Lusaka or provincial capitals, which is often unaffordable and time-consuming. The lack of local offices also means fewer community outreach activities and less civic education on human rights. As a result, the gap between legal promise and practical access widens, leaving vulnerable groups without an effective channel for redress. Establishing fully functional provincial and district offices would bring the Commission closer to the people, strengthen public trust, and ensure that constitutional rights are not just theoretical but real and enforceable for all Zambians.

3.3 THE HUMAN RIGHTS COMMISSION ACT NO. 4 OF 2024

The Human Rights Commission of Zambia (HRC) is a national body created under **Article 230 of the Constitution**⁶⁸ to promote and protect human rights for all citizens. The Constitution requires the Commission to establish offices in all provinces and gradually in districts to ensure accessibility, especially for marginalized groups in rural areas.

⁶⁷ Ibid

⁶⁸ Act No. 2 of 2016.

However, this provision has not been fully implemented. Most HRC offices remain concentrated in Lusaka, with only a few provincial offices operating, often underfunded and understaffed. This failure to decentralize limits the Commission's reach and prevents many people, particularly those in remote areas, from reporting violations or seeking help.

Under **Article 230(2) and (3)**,⁶⁹ the HRC is mandated to investigate rights violations, secure redress for victims, mediate disputes, conduct human rights research, and educate the public. Yet, these functions cannot be effectively carried out without a strong presence in all provinces and districts. For instance, rural communities face long travel distances and high transport costs to reach the Commission's offices, discouraging them from filing complaints. The absence of local offices also delays investigations and reduces the visibility of the Commission's work.

Therefore, while the Constitution provides a strong legal foundation, the lack of implementation of **Article 230(1)**⁷⁰ weakens the HRC's ability to protect rights equitably across the country. To make constitutional guarantees meaningful, government support and resource allocation must prioritize establishing and maintaining provincial and district offices so that all citizens, regardless of location, can access the Commission's services.

3.3.2 Additional Functions of the Commission

Section 6 of the Human Rights Commission Act ⁷¹ outlines the additional functions of the Commission, giving it legal authority to protect and promote human rights across Zambia. The Commission is empowered to investigate human rights violations, conduct research, publish reports, visit prisons and detention centers, cooperate with other institutions, and educate the public about their rights. On paper, these powers make the HRC a strong institution with a wide mandate.⁷² However, in practice, the way these functions are implemented often creates barriers for marginalized groups such as people in rural areas, persons with disabilities, and the poor.

⁶⁹ Act No. 2 of 2016.

⁷⁰ Ibid

⁷¹ Act No. 4 of 2024

⁷² Central Statistical Office, Ministry of Community Development & Social Services, University of Zambia, SINTEF Technology and Society, & UNICEF Zambia. (2018). *Zambia National Disability Survey 2015*. <https://www.unicef.org/zambia/reports/zambia-national-disability-survey-2015>

Firstly, **Section 6(a)**⁷³ empowers the HRC to investigate human rights abuses, but it provides no clear procedure for individuals in remote communities to report violations. For example, a villager who experiences discrimination may lack transport to reach Lusaka or other urban offices. The law assumes that everyone can access the Commission, but distance, poverty, and poor infrastructure make it difficult for marginalized people to file complaints, creating a gap between legal powers and actual accessibility.

Secondly, while **Sections 6(b) and 6(c)**⁷⁴ authorize the HRC to conduct research and publish reports, these efforts rarely reach vulnerable groups. Reports are often produced in formal language or shared through urban newspapers, making them inaccessible to people with low literacy levels or those in remote areas. This limits the practical impact of research on affected communities.⁷⁵

Thirdly, **Section 6(d)**⁷⁶ empowers the HRC to visit prisons and detention centers, but these visits mainly focus on formal institutions in urban areas, leaving violations in informal settlements and rural communities unaddressed.

Furthermore, **Sections 6(e)–(g)**⁷⁷ allow collaboration with NGOs and other bodies, yet the lack of structured referral systems weakens this cooperation. Finally, although **Section 6(j)**⁷⁸ requires public education on human rights, awareness programs seldom reach remote or disadvantaged groups. As a result, the Commission’s wide legal mandate remains underused by those who need it most.

3.4 COMPOSITION OF THE COMMISSION

Section 7 of the Human Rights Commission Act⁷⁹ outlines the composition and leadership of the Commission, explaining how members are appointed and their roles in

⁷³ Act No. 4 of 2024

⁷⁴ Act No. 4 of 2024

⁷⁵ Central Statistical Office, Ministry of Community Development & Social Services, University of Zambia, SINTEF Technology and Society, & UNICEF Zambia. (2018). *Zambia National Disability Survey 2015*. <https://www.unicef.org/zambia/reports/zambia-national-disability-survey-2015>

⁷⁶ Act No. 4 of 2024

⁷⁷ Ibid

⁷⁸ Ibid

⁷⁹ Ibid

promoting human rights in Zambia. While the law provides for a clear leadership structure, it does not require the inclusion of marginalized groups such as persons with disabilities, rural residents, or people from low-income communities. This absence of mandatory representation weakens inclusive decision-making and limits the Commission's ability to address the real challenges faced by vulnerable populations.

The lack of representation has practical consequences. Policies and programs are often shaped by leaders from urban areas, particularly Lusaka, who may not fully understand the barriers faced by rural or disadvantaged groups. As a result, issues like inaccessible complaint procedures, long distances to offices, or lack of disability-friendly services remain unaddressed.

To make the Commission more inclusive, constitutional or statutory amendments should require the appointment of representatives from marginalized groups. For example, **Section 7⁸⁰** could be amended to mandate that at least one Commissioner be a person with a disability and that others come from rural provinces or civil society organizations working with vulnerable communities. This would ensure broader participation, improve accountability, and make the HRC more responsive to all Zambians.

3.5 APPOINTMENT AND POWERS OF AUTHORISED OFFICERS

Sections 16 and 17⁸¹ give the HRC the authority to appoint authorised officers. These officers are meant to investigate human rights violations, enter premises, search for documents, and collect information necessary for investigations. In theory, these powers make the HRC capable of acting quickly and thoroughly to protect human rights. However, in practice, there are serious barriers that prevent marginalized groups from benefiting from these powers.

One major problem is capacity. There are very few authorised officers, and most are based in Lusaka. Rural communities rarely see them, which makes it almost impossible for villagers to access assistance when human rights violations occur. Even if people are aware of the officers' existence, reaching them can involve traveling long distances,

⁸⁰ Act No. 4 of 2024

⁸¹ Ibid

paying for transport, or arranging time away from work or family obligations all of which many poor or vulnerable people cannot afford. Furthermore, the process of investigation often requires formal documents, written statements, and other records. Marginalized individuals, particularly those with low literacy or limited education, may struggle to produce these documents. For persons with disabilities, additional challenges arise, such as inaccessible offices or a lack of support for submitting complaints in alternative formats.

The combination of few officers, centralized offices, and complicated procedures creates a system that is theoretically powerful but practically out of reach for those who need it most. Marginalized people are left without the necessary support to navigate the process, which limits their ability to have their complaints investigated effectively.

3.6 POWER TO INVESTIGATE COMPLAINTS

Section 18⁸² outlines how the HRC can investigate human rights violations. The Commission may act on its own initiative or respond to complaints from individuals, groups, or associations. The law also allows third parties, such as NGOs or community organizations, to submit complaints on behalf of people who cannot act for themselves. This provision is meant to increase accessibility for marginalized groups who may lack the knowledge, resources, or confidence to file complaints independently.⁸³

Despite this, the practical barriers remain significant. Many marginalized communities are unaware that they can seek help from third parties. They do not know that NGOs, community leaders, or local associations can represent them in filing complaints. Even when they are aware, there is often no clear guidance or support system to assist these organizations in acting on behalf of vulnerable individuals. Without such support, many marginalized people remain excluded from the complaint system, regardless of what the law allows.⁸⁴

⁸² Act No. 4 of 2024

⁸³ Ibid

⁸⁴ Siame IB, 'A Critical Analysis of the Effectiveness and Efficiency of the Zambian Human Rights Commission in the Promotion and Protection of Human Rights in Zambia' (LLB dissertation, University of Zambia 2013).

Moreover, the reliance on oral or written complaints can still be intimidating for people with little education or limited access to formal channels. Villagers, people living in remote areas, and persons with disabilities may feel discouraged from seeking help if they do not understand the procedures or fear that their complaints will not be taken seriously. Therefore, while **Section 18**⁸⁵ theoretically allows wide access, the lack of awareness, facilitation, and practical support means that in reality, marginalized groups often cannot use this provision to protect their rights.

3.7 FILING A COMPLAINT

Section 19 of the Human Rights Commission Act⁸⁶ explains how complaints can be filed with the Commission. Complaints may be made either in writing or orally, and if they are given orally, the Director-General is responsible for recording them in writing. The complaint must include the name and address of the person making it and must be signed, thumb-printed, or marked. Generally, complaints must be made within three years from the time the violation occurred, although the Commission may allow complaints beyond this period in exceptional circumstances.

While this process seems simple on paper, it is not always easy for marginalized groups. Many people in rural areas do not have formal addresses, which makes it difficult to meet the requirements. Others may be poor or illiterate and struggle to sign documents or make a thumbprint. Even when people know about the three-year limit, some may not realize they have a right to complain until it is too late. In addition, the law requires that complaints be submitted to the Director-General, whose office is located in Lusaka. For people living far away, traveling to the capital is expensive and time-consuming, making access to the complaint system very difficult. These requirements unintentionally favor people who live in towns, have some education, and can afford transport, leaving many vulnerable groups unable to use the HRC's services.

3.8 INQUIRIES BY THE COMMISSION

⁸⁵ Act No. 4 of 2024

⁸⁶ Act No. 4 of 2024

Once a complaint is received, **Section 20**⁸⁷ requires the Commission to conduct an inquiry, usually in public, unless it decides that the matter should be heard in private. The Commission may also stop an investigation if it believes the complaint is malicious, frivolous, or vexatious. While this ensures that the Commission does not waste resources on false complaints, it creates challenges for marginalized groups. Many people who are poor or live in remote areas do not know how to present a complaint in the correct way. For example, a rural widow or a person with a disability may not have the necessary documents or knowledge of formal procedures, and their complaint could be dismissed as insufficient.⁸⁸

Furthermore, inquiries often take place in Lusaka or other major towns. For a person living in a remote area, attending an inquiry may require traveling long distances, paying for transport, and arranging accommodation, which is often unaffordable.⁸⁹ This makes it difficult for marginalized people to participate in the process fully and to have their voices heard. Even when the Commission is willing to hear a case, practical challenges like these limit access to justice.

3.8.1 Reports and Recommendations

Section 21⁹⁰ allows the Commission to send reports and make recommendations after an inquiry. These may include ordering the release of a detained person, recommending compensation for victims, or suggesting punishment for those who violated human rights. While this shows that the Commission has the power to influence outcomes, the law relies on government institutions to act on these recommendations. In practice, authorities often delay or ignore these recommendations, leaving victims without real remedies. For marginalized groups, this can be discouraging. Even if they successfully file a complaint and participate in an inquiry, the lack of follow-through by authorities means that their

⁸⁷ Act No. 4 of 2024

⁸⁸ United States Department of State. (2024). *2024 Country Reports on Human Rights Practices: Zambia*. U.S. Department of State. Retrieved from <https://www.state.gov/reports/2024-country-reports-on-human-rights-practices/zambia>

⁸⁹ Moolman, J., & Chitiga, M. (2024). *Barriers to Accessing Justice for Persons with Disabilities in Zambia*. Scandinavian Journal of Disability Research, 26(1), 45-62. Retrieved from <https://sjdr.se/articles/10.16993/sjdr.1095>

⁹⁰ Ibid

situation may remain unchanged. The system gives hope on paper, but weak enforcement creates a barrier to meaningful justice.

3.8.2 Limitation of Powers

Section 22⁹¹ limits the Commission's powers when a matter is already pending before a court. While this prevents duplication, it disadvantages marginalized groups who cannot afford court proceedings. Many poor people rely on the HRC as a simpler and less costly way to seek justice. If their matter moves to court, they may be forced into legal processes they cannot afford, losing the protection and support that the Commission could have provided. This limitation unintentionally excludes the most vulnerable, reinforcing the gap between law and accessibility.⁹²

3.9 INSTITUTIONAL BARRIERS

In terms of **systemic capacity barriers**, the Human Rights Commission of Zambia (HRC) has very few offices outside Lusaka, limiting access for those in rural provinces. According to its 2019 annual report, provincial offices existed in only five locations beyond the capital.⁹³ More recently, the Commission itself admitted that it is not fully prepared to handle its duties under the Access to Information Act No. 24 of 2023 because of inadequate office space and finances.⁹⁴ Furthermore, formalities such as names, addresses and signatures pose obstacles, especially to people with low literacy or no formal ID, and awareness of the HRC remains low in many communities.

In the category of **representational barriers**, leadership of the HRC does not include a mandatory representation of marginalized groups for example persons with disabilities, rural residents or low-income community representatives. This exclusion means that decision-making may overlook the unique needs of those groups, such as the need for accessible complaint forms or decentralised service delivery. Without inclusive

⁹¹ Act No. 4 of 2024

⁹² United States Department of State. (2024). *2024 Country Reports on Human Rights Practices: Zambia*. U.S. Department of State. Retrieved from <https://www.state.gov/reports/2024-country-reports-on-human-rights-practices/zambia>

⁹³ <https://hrc.org.zm/wp-content/uploads/2025/06/2019-HRC-Annual-Report-1.pdf?utm> (Accessed on 05/11/2025)

⁹⁴ <https://diggers.news/local/2024/08/14/were-not-ready-for-ati-functions-without-office-space-finances-hrc/?utm> (Accessed on 05/11/2025)

leadership, the complaint system continues to be urban-focused, formal, and hard for vulnerable populations to use.

3.10 CONCLUSION

This Chapter demonstrates that while the Zambian Constitution and the Human Rights Commission Act provide a strong legal framework for the protection and promotion of human rights, significant legal and institutional barriers prevent marginalized groups from fully accessing the HRC's complaint mechanisms. Systemic capacity challenges, such as the concentration of offices in Lusaka, under-resourced provincial branches, complex procedures, and low public awareness, limit practical access to justice. At the same time, representational barriers most notably the lack of mandatory inclusion of marginalized groups in leadership mean that the Commission's policies and programs often fail to address the specific needs of vulnerable populations. Together, these gaps create a situation where the legal powers of the HRC exist largely on paper, leaving rural communities, persons with disabilities, the poor, and other disadvantaged groups without effective avenues for redress, undermining the equitable enforcement of human rights and public confidence in the Commission.

CHAPTER FOUR

THE EFFECTIVENESS OF THE HRC'S COMPLAINT PROCEDURES IN SERVING MARGINALIZED COMMUNITIES, FOCUSING ON RURAL POPULATIONS, PERSONS WITH DISABILITIES, AND THE ECONOMICALLY DISADVANTAGED

4.0 INTRODUCTION

This chapter examines how effective the Human Rights Commission's complaint procedures are in serving marginalized communities, especially people living in rural areas, persons with disabilities, and the economically disadvantaged. It looks at the challenges these groups face, including long distances to offices, poor infrastructure, low awareness of rights, difficulties meeting formal requirements, and limited follow-up or enforcement of recommendations. These barriers often prevent marginalized people from seeking justice and enjoying equal protection under the law. The chapter also compares Zambia's system with South Africa's, showing how proactive investigations, clear procedures, community outreach, and flexible processes can improve access to justice

4.1 LIMITED ACCESSIBILITY AND AWARENESS AMONG MARGINALIZED GROUPS

In Zambia, many people in rural areas struggle to access the Human Rights Commission (HRC) because most of its offices and complaint centres are located in urban areas. Although **Section 16(1) of the Human Rights Commission Act** ⁹⁵allows the Commission to appoint authorised officers to ensure that human rights are respected, the law does not specify where these officers should be based or how many should serve in rural areas. As a result, many remote districts have no authorised officers nearby. People must often travel long distances, pay high transport costs, and lose time or income to reach an office. For the poor, persons with disabilities, or those living in isolated villages, these challenges can make it almost impossible to access the Commission.

Another major issue is low awareness. While **Section 19(1) and (2) of the Act**⁹⁶ allow complaints to be made orally or in writing, many rural citizens do not know that this option exists. The lack of regular awareness campaigns means many people remain unaware of the HRC's role or the powers of authorised officers under **Section 16**.⁹⁷ Poor

⁹⁵ Act No. 4 of 2024

⁹⁶ Act No. 4 of 2024

⁹⁷ Ibid

infrastructure also worsens the situation. Roads are often in bad condition, transport is unreliable, and persons with disabilities face accessibility challenges. Although the HRC has introduced district-level “Human Rights Champions” and a toll-free number (8181) for reporting violations, many rural people still lack access to phones, airtime, or information about these services.⁹⁸

4.2 CHALLENGES FOR PERSONS WITH DISABILITIES AND POOR EDUCATION LEVELS

Even when individuals from marginalized groups reach an HRC office or contact an authorised officer, the complaint procedures can still be difficult to use. People with limited literacy often struggle to understand or complete formal complaint forms. Although **Section 19 of the Human Rights Commission Act**⁹⁹ allows complaints to be made orally or in writing, oral complaints must be written down by the Director-General or staff. This process requires officers to be skilled, patient, and able to translate from local languages or accessible formats. When this is not done properly, important details may be lost or misunderstood.¹⁰⁰ In addition, many poor people lack identity documents or stable addresses as required under **Section 19(3)**,¹⁰¹ which can cause delays or even rejection of complaints. Poverty also adds an opportunity cost, as complainants may lose income or face retaliation for taking time to report violations.

Persons with disabilities face distinct challenges that make it even harder to access the HRC’s complaint mechanisms. Many public buildings lack ramps, tactile surfaces, Braille materials, or sign-language interpreters. Information about rights is rarely available in formats accessible to persons with visual, hearing, or intellectual disabilities. Reports from organizations of persons with disabilities show that people with psychosocial or intellectual disabilities are often stigmatised and excluded from decision-making processes.¹⁰²

⁹⁸ <https://hrc.org.zm/hrc-chairperson-calls-for-corporate-accountability-in-zambias-mining-sector/?utm> (Accessed on 10/10/2025)

⁹⁹ Act No. 4 of 2024

¹⁰⁰ Zambia: Joint submission to the UN Committee on the Rights of Persons with Disabilities outlines key human rights concerns. <https://www.icj.org/zambia-joint-submission-to-the-un-committee-on-the-rights-of-persons-with-disabilities-outlines-key-human-rights-concerns> (Accessed on 10/10/2025)

¹⁰¹ Act No. 4 of 2024

¹⁰² STATEMENT UPR PRE-SESSION ON ZAMBIA Geneva, 28 November, 2022. [Zambia: Joint submission to the UN Committee on the Rights of Persons with Disabilities outlines key human rights concerns | ICJ](#)

The 2021–2022 HRC State of Human Rights Report confirms these barriers, showing that rural residents, especially those dependent on customary land, often face eviction and harassment but lack the means to report such abuses.¹⁰³ Similarly, a joint submission by disability-rights groups to the UN Committee on the Rights of Persons with Disabilities found that many persons with disabilities in rural areas have limited awareness of their rights, while public infrastructure and institutions remain largely inaccessible, making it harder for them to seek justice through the HRC.

4.3 DIFFICULTIES WITH FORMAL REQUIREMENTS AND IDENTITY/ADDRESS DEMANDS

One of the hardest parts of the complaint process is **Section 19(3) of the Human Rights Commission Act**,¹⁰⁴ which requires every complaint to be signed, thumb-printed, or marked by the complainant and to include their name and address. While this seems reasonable for verification, it creates major obstacles for poor and uneducated people. In many rural areas, residents do not have formal addresses because they live in unplanned settlements or remote villages without numbered houses. Others move frequently due to seasonal work or displacement, making it difficult to provide a stable address. Many also lack identification documents because obtaining them is costly or the nearest issuing office is far away. Fear of reprisals further discourages people from disclosing their real names when their complaints involve powerful local figures, chiefs, or state officers.

The consequences of these requirements are serious. Although **Section 18(1)(b)(iv)**¹⁰⁵ allows complaints made on behalf of a group or class of people, the law does not clearly provide a way for individuals to complain anonymously or through representatives without full identity details. As a result, people who cannot meet the formal requirements often abandon their complaints or never file them at all. This exclusion denies many citizens the chance to have their rights protected, reinforcing inequality and weakening the role of the Human Rights Commission as a body meant to serve all Zambians, especially those most vulnerable to abuse.

4.3.1 Time Limits and “Exceptional Circumstances”: Exclusion by Delay

¹⁰³ Ibid

¹⁰⁴ Act No. 4 of 2024

¹⁰⁵ Ibid

4.3.1 Time Limits and “Exceptional Circumstances”: Exclusion by Delay

Section 19(4) of the Human Rights Commission (HRC) Act¹⁰⁶ requires complaints to be filed within three years of the complainant becoming aware of the facts, with late submissions only allowed under undefined “exceptional circumstances.” This lack of clarity creates legal uncertainty, leaving complainants unsure if delays will be excused, and may deter them from filing complaints. Marginalized groups such as the poor, rural residents, and persons with disabilities are disproportionately affected, as they often learn of their rights late due to limited education, poor communication, and inaccessible information. Rigid application of the three-year limit therefore effectively denies them access to justice, undermining constitutional and international principles that demand legal procedures be fair, understandable, and inclusive.

In practice, complaints are often dismissed for procedural shortcomings such as being out of time, lacking sufficient particulars, or missing identification. These formal requirements assume easy access to documents, knowledge of legal timeframes, and the ability to travel to HRC offices, which many marginalized people cannot meet. **Section 20(2)¹⁰⁷** allows the HRC to refuse complaints with insufficient particulars, meaning even strong substantive cases can be blocked. Reports and parliamentary debates have highlighted these challenges, showing that vague procedural rules and the undefined “exceptional circumstances” threshold create real barriers for vulnerable complainants who lack legal support, transport, literacy, or assistive services. Clear guidelines and procedural flexibility are therefore needed to ensure meaningful access to justice.

4.4 INSTITUTIONAL WEAKNESS AND LIMITED INVESTIGATIVE REACH

Although **Sections 17 and 18 of the Human Rights Commission Act¹⁰⁸** grant authorised officers wide investigative powers, these are rarely used to reach marginalized communities. **Section 17(1)¹⁰⁹** empowers officers, with a warrant, to enter premises, search for evidence, and make inquiries into possible violations. However, most investigations only begin after a formal complaint is filed, which disadvantages people

¹⁰⁶ Act No. 4 of 2024

¹⁰⁷ Ibid

¹⁰⁸ Ibid

¹⁰⁹ Ibid

who cannot easily lodge complaints due to distance, poverty, or disability. **Section 18(1)(a)**¹¹⁰ gives the Commission **suo motu** powers that is, the authority to investigate on its own initiative even without a complaint. Yet, this power is seldom used, largely because of limited funding, inadequate staffing, and weak coordination with civil society organizations.

The underuse of **suo motu** investigations undermines the principle of **equality of access** to justice, which is protected under **Article 118(2)(e) of the Constitution**¹¹¹ and reflected in international standards such as **Article 13 of the United Nations Convention on the Rights of Persons with Disabilities**.¹¹² These principles require that all individuals, regardless of their circumstances, have equal opportunity to seek and obtain remedies for rights violations. When the HRC relies mainly on written complaints, it effectively excludes those unable to access or navigate formal procedures. Proactive investigations, by contrast, would help bridge this gap by enabling the Commission to identify violations affecting people who cannot file complaints themselves.

Furthermore, **Section 16(1) of the Act**¹¹³ obliges authorised officers to ensure compliance with human rights, but it does not mandate community outreach or awareness programs. This omission encourages a reactive rather than proactive approach, where the Commission responds only to reported cases instead of detecting unreported abuses in rural or marginalized areas. Expanding the use of **suo motu** powers would therefore enhance equality of access and help the HRC fulfil its constitutional duty to protect the rights of all citizens, not just those able to reach its offices.

4.5 INADEQUATE FOLLOW-UP AND ENFORCEMENT OF RECOMMENDATIONS

Section 21 of the Act¹¹⁴ provides that, after an inquiry, the Commission shall send a written report of its findings to the parties concerned and make recommendations to an appropriate authority. It can recommend actions such as release from detention,

¹¹⁰ Ibid

¹¹¹ Constitution of Zambia (Amendment) Act No. 2 of 2016

¹¹² United Nations. (2006). Convention on the Rights of Persons with Disabilities (CRPD). Adopted by the UN General Assembly, Resolution A/RES/61/106.

¹¹³ Act No. 4 of 2024

¹¹⁴ Ibid

compensation, or punishment for offenders. However, **subsection (3)**¹¹⁵ requires the relevant authority to respond within thirty days, and if it fails to do so, it commits an offence. In practice, many institutions do not comply with these deadlines, and prosecutions for such failures are rare. This weak enforcement mechanism undermines public confidence, especially among poor complainants who cannot afford to pursue further action.

Furthermore, marginalized groups often cannot follow up on recommendations because they lack legal knowledge or financial resources. Even though **Section 21(5)**¹¹⁶ allows the HRC to bring an action before court on behalf of victims, the Commission rarely does so due to resource shortages and bureaucratic delays. As a result, even when violations are confirmed, victims especially the poor and persons with disabilities often do not receive real justice. The process becomes slow, technical, and urban-centered, leaving the rural poor feeling abandoned by an institution meant to protect them.

4.5 THE EFFECTIVENESS OF THE HRC'S COMPLAINT PROCEDURES IN SERVING MARGINALIZED COMMUNITIES: LESSONS FROM SOUTH AFRICA

4.5.1 Accessibility and Awareness in South Africa

In South Africa, the Human Rights Commission (SAHRC) has established a more structured approach to making its services accessible, especially for marginalized groups including rural residents, persons with disabilities, and the economically disadvantaged. The Commission is empowered under **section 13**¹¹⁷ to investigate alleged violations either on its own initiative or on receipt of a complaint. This means that the SAHRC can proactively identify abuses without waiting for individuals to lodge complaints, reducing barriers for people unable to access offices in urban centers. Under **section 13(3)(a)**,¹¹⁸ the Commission can provide financial assistance to enable victims to pursue proceedings in court or direct them to an appropriate forum, which improves access to justice for economically disadvantaged groups.

¹¹⁵ Act No. 4 of 2024

¹¹⁶ Ibid

¹¹⁷ South African Human Rights Commission Act No. 40 of 2013

¹¹⁸ Ibid

The SAHRC also has the mandate under **section 13(1)(b)**¹¹⁹ to liaise with civil society organizations, other institutions, and community groups to promote human rights awareness and ensure complaints from marginalized people are received and addressed. These measures help overcome low awareness, a key challenge in Zambia, where rural communities often do not know that complaints can be made orally or in writing under **section 19 of the Zambian Human Rights Commission Act**.¹²⁰ By maintaining regular engagement with communities, South Africa ensures that vulnerable populations are informed and supported in accessing the Commission.

4.5.2 Investigations and Procedural Flexibility

The SAHRC conducts investigations through powers granted under **section 15**.¹²¹ The Commission may require individuals to provide information, produce documents, or appear before it, but this must be justified as necessary, reasonable, and in line with equality and fairness. Legal representation is allowed, and those questioned are protected against self-incrimination under **section 15(2) and section 15(3)**.¹²² This combination of proactive investigation and procedural safeguards ensures that marginalized groups are not excluded by formal requirements, unlike in Zambia where **Section 19**¹²³ imposes identity, address, and time-limit obligations that often prevent poor or disabled persons from filing complaints.

Section 15(6) requires the Commission to determine procedures based on each case, and under **section 15(7)**, these procedures are made public. This clarity strengthens legal certainty and access to justice, allowing complainants to understand how to navigate the process, which contrasts with Zambia where vague references to “exceptional circumstances” and formal procedural barriers often deter marginalized complainants.

4.5.3 Mediation, Conciliation, and Enforcement

In South Africa, the SAHRC can resolve disputes through mediation, conciliation, or negotiation under **section 14**.¹²⁴ This enables the Commission to address violations without lengthy court processes, which benefits rural or disabled complainants who may

¹¹⁹ South African Human Rights Commission Act No. 40 of 2013

¹²⁰ Act No. 4 of 2024

¹²¹ Ibid

¹²² Ibid

¹²³ Ibid

¹²⁴ South African Human Rights Commission Act No. 40 of 2013

face transport and financial difficulties. When investigations conclude, the Commission must report findings to the National Assembly and affected parties under section 18, and the relevant authorities are required to respond within sixty days. This structured follow-up strengthens enforcement and accountability, unlike in Zambia, where recommendations under **section 21** ¹²⁵ often go unimplemented, leaving victims without redress.

4.5.4 Accountability, Independence, and Representation

The SAHRC maintains independence and impartiality under **section 4**,¹²⁶ with all commissioners and staff required to act without bias and in good faith. This framework, combined with obligations under **section 13 and section 20** ¹²⁷ for state cooperation, helps ensure that complaints are handled fairly. Furthermore, the Commission engages with civil society to include diverse voices, helping to represent marginalized groups in decision-making. This contrasts with Zambia, where the composition of the HRC under section 7 does not require representation from marginalized communities, contributing to urban-focused procedures and weak cooperation with local organizations.

4.6 LESSONS ZAMBIA CAN DRAW

South Africa's experience shows the importance of proactive investigations, clear procedural guidance, structured engagement with civil society, and mechanisms for mediation and follow-up. Zambia could improve its complaint procedures by allowing suo motu investigations similar to SAHRC's powers under section 13, providing flexible identity and address requirements, ensuring procedural clarity for exceptional circumstances, strengthening community outreach, and mandating representation of marginalized groups in the HRC. Additionally, incorporating mediation and conciliation processes like section 14 in South Africa could reduce costs and barriers for poor and rural complainants, ensuring access to justice and real enforcement of human rights protections.

¹²⁵ Act No. 4 of 2024

¹²⁶ South African Human Rights Commission Act No. 40 of 2013

¹²⁷ Ibid

4.7 CONCLUSION

This chapter shows that Zambia's Human Rights Commission faces serious challenges in reaching marginalized communities, with barriers such as formal complaint requirements, limited awareness, and weak enforcement leaving many without access to justice. The experiences of South Africa demonstrate that proactive investigations, flexible procedures, structured community engagement, and proper follow-up can significantly improve the effectiveness of complaint mechanisms. Linking these findings to the study's objectives, it is clear that improving accessibility, inclusivity, and accountability in the HRC's procedures is essential for ensuring that all Zambians, especially the most vulnerable, can have their rights protected and receive meaningful remedies.

CHAPTER FIVE

CONCLUSIONS AND RECOMMENDATIONS

5.0 INTRODUCTION

This chapter presents the conclusions and recommendations of the study on the effectiveness of the Human Rights Commission's (HRC) complaint procedures in serving marginalized communities in Zambia, with a focus on rural populations, persons with disabilities, and the economically disadvantaged. It summarises the main findings from the previous chapters, highlighting the gaps between the legal framework under the Constitution and the Human Rights Commission Act No. 4 of 2024 and the practical challenges faced by vulnerable groups. The chapter also provides practical recommendations aimed at improving accessibility, simplifying procedures, strengthening institutional support, enhancing awareness, and ensuring effective enforcement, so that the HRC can fulfil its mandate of protecting and promoting human rights for all Zambians.

5.1 FINDINGS AND CONCLUSIONS

5.1.1 CHAPTER ONE

Chapter one gave a general overview of the topic and set the foundation on an analysis of the effectiveness of the human rights commission **HRC'S** complaint mechanisms in serving marginalized communities in Zambia: a focus on rural populations, persons with disabilities, and the economically disadvantaged. It gave a brief background to the study; further, it looked at the statement of the problem, objectives of the study, research questions and significance. Then, a literature review was given stating how the study differs from other authors and finally the methodology of the study.

5.1.2 CHAPTER TWO

This chapter examined international and regional legal frameworks governing human rights complaints and their relevance to Zambia's Human Rights Commission (HRC). Instruments like the UDHR, ICCPR, and ICESCR set global standards for protecting civil, political, economic, social, and cultural rights, while regional treaties such as the ACHPR, ACRWC, and Maputo Protocol address Africa-specific issues and provide reporting and complaint mechanisms. These frameworks guide the HRC, strengthen its monitoring role, and link it to broader accountability systems. Despite Zambia's ratification of these

treaties and the establishment of the HRC, challenges remain, including limited access for marginalized groups, inadequate resources, and low awareness of complaint mechanisms. Nevertheless, these international and regional frameworks are essential for shaping Zambia's human rights landscape, ensuring that the HRC's work aligns with global and African human rights obligations.

5.1.3 CHAPTER THREE

This chapter was based on examining the legal and institutional barriers that prevent marginalized groups in Zambia from accessing the Human Rights Commission's complaint mechanisms. The study highlighted that while the Constitution of Zambia and the Human Rights Commission Act No. 4 of 2024 provide a strong legal framework for protecting human rights, practical challenges significantly limit the ability of vulnerable communities to benefit from these protections. Articles 11 to 34 of the Constitution guarantee fundamental rights such as equality before the law, freedom from discrimination, and access to justice. Article 230 establishes the Human Rights Commission (HRC) and mandates it to promote and protect these rights at provincial and district levels. Despite these provisions, many marginalized individuals, including rural residents, persons with disabilities, and the poor, face difficulties in filing complaints, participating in inquiries, and obtaining meaningful remedies.

The findings show that the Human Rights Commission, though empowered under Sections 4, 6, 16, 17, 18, and 19 of the Human Rights Commission Act, is often inaccessible to those who need it most. The centralization of offices in Lusaka, limited number of authorized officers, and complicated complaint procedures create practical barriers that prevent effective participation. Many rural and poor communities lack awareness of their rights or the existence of the HRC, and even when aware, formal requirements such as providing addresses, signatures, or documentation are often difficult to meet. Institutional barriers, including lack of representation of marginalized groups in the leadership of the Commission and weak coordination with NGOs and other institutions, further limit the effectiveness of the complaint mechanisms. Investigations, inquiries, and recommendations often fail to reach or benefit these communities due to distance, cost, and weak enforcement of the HRC's guidance.

Therefore, the chapter reveals a significant gap between the legal framework for human rights protection in Zambia and the practical ability of marginalized groups to access these rights. While the Constitution and the Human Rights Commission Act provide strong powers and responsibilities for promoting human rights, structural, procedural, and institutional challenges mean that vulnerable communities are often excluded from meaningful justice. Without targeted outreach, decentralization of services, simplified procedures, and greater inclusion of marginalized voices in decision-making, the HRC's powers remain largely theoretical, and the promise of accessible and effective human rights protection for all remains unfulfilled.

5.1.4 CHAPTER FOUR

This chapter was based on examining how effective the Human Rights Commission's complaint procedures are in serving marginalized communities, especially people living in rural areas, persons with disabilities, and the economically disadvantaged. The findings show that the HRC's complaint system is still difficult for many poor and rural citizens to use because of distance, low awareness, poor infrastructure, and rigid formal requirements under Sections 19 and 20 of the Human Rights Commission Act. Many people cannot meet identity and address demands or understand the time limits under Section 19(4), which causes delays and rejection of complaints. The Commission also underuses its suo motu powers under Section 18 to investigate cases on its own initiative, limiting its reach to those who can physically access offices. Even when investigations are done, weak enforcement of recommendations under Section 21 means that victims rarely get real justice.

Therefore, this chapter showed that Zambia's complaint procedures need major improvement to serve marginalized people effectively. Lessons from South Africa's Human Rights Commission, which uses proactive investigations, mediation, flexible rules, and strong follow-up systems, prove that with better procedures and clear enforcement, the HRC can become more accessible and inclusive, ensuring equal justice for all citizens.

5.2 RECOMMENDATION

This research has shown that marginalized groups in Zambia face significant barriers in accessing the Human Rights Commission's complaint mechanisms, despite the legal

powers provided under the Constitution and the Human Rights Commission Act No. 4 of 2024. The challenges include centralized offices, limited awareness, complicated procedures, and weak enforcement of recommendations. In light of these findings, the author recommends the following:

1. Decentralize HRC Offices and Increase Accessibility

Zambia should establish HRC offices at district and community levels, as envisaged under Article 230(1) of the Constitution. This would bring services closer to rural and remote populations, reducing travel costs and logistical barriers. Decentralization would ensure that marginalized groups, including persons with disabilities and low-income communities, can easily file complaints and participate in inquiries without undue hardship.

2. Simplify Procedures and Enhance Awareness Programs

The HRC should simplify complaint filing procedures under Sections 18 and 19 of the Human Rights Commission Act and provide alternative means for illiterate or disabled individuals to submit complaints. In addition, targeted awareness campaigns should be conducted in local languages, using accessible formats and community outreach programs. This would empower marginalized communities to understand their rights and navigate the complaint system effectively.

3. Strengthen Institutional Support and Collaboration

The Commission should increase representation of marginalized groups in its leadership under Section 7 and strengthen cooperation with NGOs, community-based organizations, and local leaders under Sections 6(e)–(g). Clear frameworks for collaboration and referral systems would ensure that vulnerable populations receive timely assistance, enhancing the practical enforcement of rights and improving follow-up on recommendations to deliver meaningful remedies.

4. Improve Enforcement and Follow-up Mechanisms

The HRC should be given resources and authority to ensure compliance with recommendations under Section 21, including the ability to pursue court action on behalf of victims when necessary. Clear guidelines should be developed for follow-up on cases, especially where vulnerable complainants cannot pursue matters themselves.

Strengthened enforcement would enhance public confidence and ensure that confirmed violations result in meaningful remedies for marginalized groups.

5. Expand Accessibility Through Mobile and Local Complaint Centers

The HRC should establish mobile complaint centers and offices in rural and remote areas to bring services closer to marginalized communities. This would reduce travel costs and logistical barriers and allow persons with disabilities, rural residents, and economically disadvantaged citizens to lodge complaints more easily. Localized centers would also facilitate proactive outreach and monitoring, ensuring that vulnerable groups are not excluded due to distance or lack of awareness.

6. Strengthen Accessibility and Awareness for Marginalized Communities

Zambia should ensure that the Human Rights Commission establishes more district offices and appoints authorised officers in rural areas as provided under Section 16(1) of the Act. The Commission should also conduct regular awareness campaigns in local languages and provide information in accessible formats such as Braille and sign language. Drawing lessons from South Africa's Human Rights Commission under Section 13(1)(b), the HRC should partner with community organisations and traditional leaders to reach remote areas and promote understanding of human rights complaint procedures. This would make the HRC more visible and accessible to all citizens, especially those living far from urban centres.

7. Promote Proactive Investigations and Stronger Enforcement Mechanisms

Zambia should make better use of the suo motu powers under Section 18(1)(a) of the Human Rights Commission Act, allowing the Commission to investigate human rights violations on its own initiative, similar to South Africa's approach under Section 13(2) of the SAHRC Act. The government should also strengthen enforcement of recommendations under Section 21 by ensuring that state institutions comply within the 30-day period and are held accountable for failures to act. Clear follow-up systems and public reporting of non-compliance would build trust, ensure real remedies for victims, and enhance the Commission's role as a protector of all citizens' rights.

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STUDENT NUMBER: LLB19115792

SUPERVISOR: Ms. KHETIWE ZIMBA MUTALE TOPIC: AN ANALYSIS OF THE EFFECTIVENESS OF THE HUMAN RIGHTS COMMISSION HRC'S COMPLAINT MECHANISMS IN SERVING MARGINALIZED COMMUNITIES IN ZAMBIA: A FOCUS ON RURAL POPULATIONS, PERSONS WITH DISABILITIES, AND THE ECONOMICALLY DISADVANTAGED

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Research Proposal	correction to literature review on research questions.	Simba. 28/07/2025	Mulako 28/07/2025
Chapter 1 Introduction	align research objectives with questions.	Simba 28/07/2025	Mulako 28/07/2025
Chapter 2	provide more legal basis	Simba 15/08/2025	Mulako 15/08/2025
Chapter 3	relate provisions to research gap	Simba 05/09/2025	Mulako 05/09/2025
Chapter 4	provide more analysis	Simba 03/10/2025	Mulako 03/10/2025

Chapter 5 Conclusions & Recommendations	ALL chapters Summaries: delete recommendations to reflect SSP.	Philo. 23/10/2025	Phuako 23/10/2025
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