



**UNIVERSITY of LUSAKA**  
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**SCHOOL OF LAW**

**RIGHTS OF NON-MARITAL CHILDREN TO ACCESS OF THEIR FATHERS WITH  
LESSONS FROM SOUTH AFRICA AND KENYA**

**BY:**

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

**2025.**

## **DECLARATION**

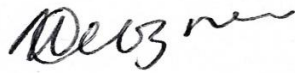
I **HOPE KAMANGU**, do hereby declare that this dissertation titled “**RIGHTS OF NON-MARITAL CHILDREN TO ACCESS OF THEIR FATHERS WITH LESSONS FROM SOUTH AFRICA AND KENYA**” which is hereby submitted to the school of law at the University of Lusaka as part of the requirements for the award of the Bachelor of laws (LLB) degree, is solely of my own and that it has, to the best of my knowledge, not yet presented for any academic purposes in Zambia or elsewhere. Other people’s work and sources used in study have been acknowledged. I hereby declare that I have read and understood the regulations governing the submission of the Bachelor of laws Degree (LLB) dissertation including those relating to length and plagiarism, as contained in the rules of the university and that this dissertation conforms to those regulations.

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## **SUPERVISOR'S RECOMMENDATION**

I, **MWAKA CHIZINGA**, do recommend that the dissertation titled, **RIGHTS OF NON-MARITAL CHILDREN TO ACCESS OF THEIR FATHERS WITH LESSONS FROM SOUTH AFRICA AND KENYA**" authored by **HOPE KAMANGU**, STUDENT NUMBER LLB22113508 was done under my supervision be admitted by the University. I have checked it carefully and I am satisfied that it meets the requirements related to format as laid down by the University Regulations governing directed research.

A handwritten signature in black ink, appearing to read 'Mwaka Chizinga', is written over a faint, rectangular, light-grey stamp.

**MS. MWAKA CHIZINGA**

## **DEDICATION**

I dedicate this dissertation to God, whose grace and guidance has carried me through each and every step of this journey. To Mother, thank you for your unwavering love, prayers and constant support. This achievement is as much yours as it is mine.

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## **ABSTRACT**

This dissertation critically examines the legal framework governing the access rights of non-marital children to their biological father in Zambia , while highlighting the persistent legal, social and cultural barriers that hinder the realization of these rights, Despite Zambia's ratification of the international instruments such as the United Nations Convention on the Rights of the Child (UNCRC) and the African Charter on the Rights and Welfare of the Child (ACRWC) , domestic law and practice continue to fall short in ensuring non-discriminatory access and parental involvement for children born out of wedlock . The study scrutinizes statutory provisions such as those in the Births and Deaths Registration Act and the Children's Code Act how these Acts often subordinate the rights of non-marital fathers to marital consent, thereby undermining the child's right to maintain meaningful relationships with both parents.

While using a comparative legal analysis the dissertation draws on the experiences of South Africa and Kenya, two jurisdictions that have made significant changes in reforming their family law systems to reflect the evolving nature of parenthood and the paramount of the child's best interests. South Africa's Children's Act 38 of 2005 and Kenya's Children Act 38 of 2022 offer progressive models that recognize equal parental responsibility regardless of marital status, provide clear legal remedies for access disputes, and integrate international human rights norms into domestic law.

The study employs a qualitative methodology, combining doctrinal legal analysis with insights from case law, scholarly literature and policy documents. It concludes by proposing a set of legal and policy reforms for Zambia, including statutory amendments, judicial training, institutional support mechanisms, and public awareness initiatives. , These recommendations aim to align Zambia's family law framework with its international obligations and to promote a more inclusive, child centered approach to parental access one that affirms the rights of all children to love, care and connection from both parents, irrespective of the circumstances of their birth.

## INTRODUCTION OF STUDY

### CHAPTER ONE.

#### INTRODUCTION

This chapter is going to be discussing and highlighting the gaps that are under the Zambian laws and legislation when it comes to non-marital children having access to their non-marital fathers and vice versa, the impact that it has on the child's emotional, psychological and social development and the infringement on the child's rights to maintain relationships with both their parents.

These rights are found in both international human rights instruments and national laws, which state that all children regardless of marital status of their parents are, treated the same, and both parents must be given equal rights to their child without any discrimination.<sup>1</sup>

However, in Zambia children born out of wedlock or outside marriage also known as non-marital children continue to face significant social, legal and cultural challenges in exercising their rights to access their biological fathers and their fathers also have challenges when it comes to getting their full paternity rights due to the discrimination that comes about on the part of the father because in Zambia being a non-marital father of a child, a man cannot get access rights or any other paternity rights like having his surname on the birth certificate of the child without consent from the mother and this was seen in the Zambian case of **CHAFUNGWA V ROOS**, where it was said that under common law a non-marital child strictly only has one parent who is the mother hence giving all rights to the mother even rights such as choosing to substitute the fathers surname and add her own on the child's birth certificate and also allowing or denying the father to the child access of seeing the child and in most cases such mothers tend to start the practice of parental alienation causing the child to dislike their father.<sup>2</sup>

Even though the CRC states how every child is entitled to the right of parental responsibility, the family law legal framework of Zambia remains inadequate in

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<sup>1</sup> United Nations convention on the rights of the child.

<sup>2</sup> Chafungwa v Roos and Anor (HPF 519 OF 2021) [2021] ZMHC 30(29 December 2021)

guaranteeing access rights for fathers to their non-marital children and vice versa. This gap is particularly concerning in the light of Zambia's international obligations under instruments like the **United Nations Convention on the Rights of the Child (UNCRC)** and the **African charter on the rights and welfare of the child (ACRWC)** both of which call for non-discrimination and the protection of the child's right to parental care and contact from both their parents regardless of their marital status, also in **section 121 of the Children's Code Act** it clearly states that "a child born to a father and mother whether married to each other or not shall have equal rights and privileges as a child born in a marriage but the in practice of the Zambian courts this is rarely the case ,"<sup>3</sup>

In contrast to countries such as South Africa and Kenya, it is seen that the said countries have taken steps to ensure the non-discrimination of non-marital children when it comes to theirs or their non-marital father's access rights hence their legal reforms offer valuable lessons that Zambia can adapt particularly in aligning domestic laws with international children's rights standards and in fostering a more inclusive approach to family law.

Hence this dissertation is aimed at critically examining Zambia's current legal framework on the access rights of non-marital children to their non-marital fathers while identifying the key legal and societal barriers and then draw comparative insights from South Africa and Kenya, which in the end the study ultimately aims to propose legal and policy reforms that prioritizes the **best interest of the child** and ensures equal rights for both parents under family law.

## BACKGROUND STUDY

Generally, Children have an inherent right to maintain personal relationship and direct contact with both parents regardless of the parent's marital status. This right is found and affirmed in the **United Nations Convention on the Rights of the Child (UNCRC)** and the **African charter of the rights and welfare of the child (ACRWC)** both of which Zambia is a member to and has ratified the two conventions make sure that all children have their

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<sup>3</sup> Act NO.12 of 2022 of the Laws of Zambia

rights not discriminated against including discrimination based on circumstances of their birth and identity.

However, in Zambia the access rights of non-marital children to their father and vice versa is inadequately protected. Even when there are statutes that provide for paternal responsibility it only applies to cases of proven paternity and unlike Kenya and South Africa that have laws in both their constitutions, and other legislations that cater for the non-marital father Zambia's family law legal framework has no comprehensive legal structure that guarantees such fathers and their non-marital children the fundamental paternity rights and relationships.

In Kenya under their Constitution of 2010 **article 53(1) e and s11(1) of Kenya's children act of 2022** gives every child right to parental care and protection, which includes equal responsibility of the mother and father to provide for the child.<sup>4</sup>

Furthermore, under Kenya's children's Act of 2022 under **S (32)** gives equal responsibility over the child on both parents regardless of their marital status or even if the child was born out of wedlock.<sup>5</sup>

Unlike Kenya and South Africa, Zambia's family law legal framework does not fully or properly advocate for non-marital children and their non-marital fathers interests and rights over them hence this gap not only raises serious family law concerns but also violates the **Best interest of a child** principle because in our Zambian jurisdiction as seen in the case of **Chibesa v Chibesa** it is said that a child is best off with their mother and not their father in such cases leaving the father with no hope of gaining their child's custody or having access rights to their child only because it is presumed that the mother is the best parent saying that she provides better social and emotional wellbeing for the child which is not the instance in every case and in most cases the courts sideline the "best interest of the child principle" and just rely on judicial precedence that usually support the mothers, to rule out such matters of non-marital children<sup>6</sup>.

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<sup>4</sup> The constitution of Kenya, 2010

<sup>5</sup> Kenya the children Act 2022

<sup>6</sup> Chibesa v Chibesa

Hence, this research will be looking at a comparative analysis to get laws from South Africa and Kenya, two African countries whose jurisdictions have made better and more deliberate advances toward protecting access rights of these non-marital children may offer valuable lessons for reform in the Zambian context.

## STATEMENT OF THE PROBLEM

Zambia is a party to and has ratified the Convention on The Rights of a Child in 1991 and under Article 7 the CRC gives right to children know both their parents and have connection to them and this is inclusive of their fathers in instances of non-marital children additionally Zambia has domesticated this right under section 9 of the Children code Act although it has domesticated this Zambia's Births and deaths registration Act does not tally with the CRC which then creates a legal barrier that go against the international obligations set out in the CRC which Zambia has ratified.<sup>7</sup>

This legal gap disproportionality effects the non-marital children and their fathers who cannot have their full paternity rights if not granted by the mother as seen in **section 15 of the BIRTHS AND DEATHS REGISTRATION ACT CHAPTER 51 OF THE LAWS OF ZAMBIA** which states that a father of an illegitimate child can only be registered as the father of that child with the consent of the mother.

Also in Zambia's dual system, comprises of statutory and customary law often, compounds the problem seeing that customary norms only place emphasis on marital legitimacy and paternal acknowledgement as prerequisites for access leaving non marital children with little legal recourse when contact with their father is denied and this then contradicts Zambia's obligations under international treaties to uphold the **non-discrimination principle , right to parental care and the child's right to family life**, further Section 124(2) of the Children's code act states how a man can only acquire legal parentage upon receiving consent from the mother.

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<sup>7</sup> Ibid 1

## 1. GENERAL OBJECTIVE

**To examine the legal framework governing the access rights of non-marital children to their fathers in Zambia**

### 2.1 SPECIFIC OBJECTIVES

**1. To examine the international and regional laws on the non-marital child's right to contact and access their father.**

**2. To assess the law in practice in Zambia governing a non-marital child's right to access their father.**

**3. To analyze the legal and policy frameworks in South Africa and Kenya regarding the access rights of non-marital children.**

### 2.2 RESEARCH QUESTIONS

- i) What international and regional instruments recognize and protect the right of non-marital children to have contact with and access their father?
- ii) How is the right of non-marital children to access their fathers provided for and enforced under Zambian law and in practice?
- iii) What are the legal and policy approaches of South Africa and Kenya regarding towards the access rights of non-marital children to their fathers and how do these compare.

## 3. SIGNIFICANCE OF STUDY

The significance of this study is to identify and address critical gaps in Zambian family law legislation particularly those concerning the rights of fathers to access their non-marital children, it will also address the legal, social and development implications of children born out of wedlock having access to their fathers focusing on comparative insights from South Africa and Kenya. It will seek to highlight the importance of parental access, legal reforms and the best interest of the child.

Additionally this research shall also contribute to the field of knowledge and serve as a catalyst for further research in the area of law like parliament where it will offer comparative legal insights to inform legislative reform in Zambia, it will also help identify

legal gaps or discriminatory provisions affecting non marital children and lastly it will encourage alignment with international human rights instruments e.g. CRC, African Charter on the Rights and Welfare of the Child).

The research will also be helpful to the judiciary (courts and judges) because it will provide jurisprudential perspectives from South Africa and Kenya to support progressive child centered interpretations and it will also assist in promoting consistency and fairness in judgment's involving non marital children's rights.

This research will also help the department of social welfare/ child protection agencies in that it will highlight the psychological and emotional need for paternal relations regardless of marital status.

#### 4. SCOPE OF STUDY

This research will focus on the Children's Code Act of Zambia and further compare it with similar legislation in South Africa and Kenya to help identify progressive and robust provisions in this area. The geographical study of this research will be the republic of Zambia.

#### 5. DEFINITION OF TERMS AND ACRONYMS

##### DEFINATIONS

- i) Non-marital child: This is a child born out wedlock or born of parents that were not legally married at the time they were conceived.
- ii) Non-marital father: this man is the biological father of a child but is not married to the child's mother <sup>8</sup>
- iii) Parental alienation: This is the process by which one parent intentionally or unintentionally undermines the relationship between the child and the other parent often resulting in the child's rejection to the targeted parent <sup>9</sup>

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<sup>8</sup> <http://michiganlegalhelp.org.com> non-marital children born or conceived during marriage , accessed on 09/04/25

<sup>9</sup> <https://www.ncsc.org> parental alienation can be emotional child abuse, accessed on 09/04/25.

## ACRONYMS

- i).UNCRC: United Nations Convention on the Rights of the child.<sup>10</sup>
- ii) ACRWC: African Charter on the Rights and Welfare of the child.<sup>11</sup>

## 6. LITERATURE REVIEW

Other Authors from both Zambia and abroad have written on the matter concerning the access rights of non-marital children to their non-marital fathers. The different scholars have discussed the different barriers that are faced in this particular area of law governing these rights. Hence, this research therefore seeks to add to the already existing body of knowledge created by the following authors.

**M.Chizinga** in her book “An introduction to family law in Zambia, “highlights the case of ***Chafungwa v Roos*** where it was stated that under common law a non-marital child strictly only has one parent who is the mother, which causes discrimination on the part of the non-marital father and hinders the child from having access and contact to their father because then without the mothers consent the father cannot contact their child this dissertation is then contradicting what was said in the above case because the stated principle established under common law only raises parental discrimination on the non-marital father and hinders the enjoyment of the child access rights to their father and denies them having a relationship with both their parents .<sup>12</sup>

**Yulie Panayiota Paizes** in his dissertation “The position of unmarried fathers in south Africa; an investigation with reference to a case study brought out the fact that in south Africa unlike the mother who’s Legitimacy is never a question to the non-marital child but as for the father the law regards the father of a non-marital child as a stranger to his child .The father of an illegitimate child does not have inherent right of guardianship or custody over his minor child ,even if the mother of the illegitimate child dies, He also brought out the fact of how an illegitimate child automatically acquires the surname of the mother . His dissertation further goes on and states how a non-marital father does not

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<sup>10</sup> <https://ico.org.uk.com> accessed on 09/04/25

<sup>11</sup> <https://au.int.com> accessed on 09/04/25

<sup>12</sup> M.Chizinga , An introduction to family law in Zambia, Juta press 2024

have inherent access to his minor child, and if the mother of the minor child denies access, the father's only right of recourse is to apply to the high court for access to the minor child and this particular fact that was brought out in the above dissertation is what this current dissertation is trying to look at and help fix because at the end of the day both parents must have equal rights over their child regardless of marital status.<sup>13</sup>

**A. Louw** in "The constitutionality of a biological father's recognition as a parent," spoke about how the south African constitution under section 28(1)(b) states that all children have the right to parental care the constitution does not expressly protect the rights of parents in any direct manner because the paucity of the constitution protection afforded to the family and more particularly to the parents of children within the family in the present context, stands in stark contrast to all major international human rights instruments that provide for the protection of the family and family relations in some way or another.<sup>14</sup>

**Serena Mayeri** under The Yale Law Journal wrote," Foundling fathers: non-marriage and Parental Rights in the age of equality "which discussed issues like the legal renaissance for unwed fathers under this issue he outlined how in the early 1970s non-marital fathers seized upon emerging constitutional equality principles to challenge their inferior parental status. Nevertheless, over the next two decades the Supreme Court decided a series of cases that first expanded and contracted "unwed fathers" constitutional rights. Now this dissertation is aimed at finding the expanded constitutional rights that were established for the non-marital father to help them enjoy their children<sup>15</sup>

**Douglas Mailula**, under his Article "Taking children's rights seriously: Access to, and custody and guardianship of a child born out of wedlock wrote that *under* south African law there is no relationship whatsoever between a father and his non-marital child except that he is obliged to maintain the child and the child has a right to claim maintenance<sup>16</sup>but then this current dissertation just like Van **Zyl** in ***Van Erk v Holmer 1992 (2) SA 636(W)***

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<sup>13</sup> Y .Panayiota Paizes , The position of unmarried fathers in South Africa :An investigation with reference to a case study

<sup>14</sup> A. Louw ,The constitutionality of a biological father's recognition as a parent.2010

<sup>15</sup> Serena Mayeri, The Yale Law Journal," Foundling fathers: non-marriage and Parental Rights in the age of equality.

<sup>16</sup> Douglas Mailula , Taking children's rights seriously: Access to and custody and guardianship of a child born out of wedlock , Department of Private law, Unisa,

does not support what was said under the south African law because just like Zyl said , the father's duty to support his non-marital child is clearly based on the blood relationship arising from the father's paternity therefore it cannot be said that the father of a non-marital child is not related to the child and must have limited access and have the child's access rights to him deprived or limited too. <sup>17</sup>

**Abdul Rokhim** under his Dissertation "The position and legal status of children out of marriage are reviewed based on the legal provision in Indonesia," discussed how in Indonesia marriage plays a big role in the legal status of children born to a man and woman he says that in Indonesia unregistered marriages which catalyze the birth of children born out of wedlock has an effect on the development of children who are born in future because hence they will be considered bastards because a child can only be said to be legally related to his father if he is born of a valid marriage , hence while looking at what was said by Abdul Rokhim this dissertation at hand will be scrutinizing the validity of children born outside of a valid marriage and will look at the rights they possess even though they are considered bastards .<sup>18</sup>

**Tholaine Matadi** under the dissertation "Parental responsibilities and rights of unmarried fathers under the South African children's Act 38 of 2005: A critical analysis of selected recent case law" examined the legal position of unmarried fathers in South Africa and analyzed how the children's Act 38 of 2005 addressed their parental responsibilities and rights. It provided a critical analysis of case law highlighted the practical implications of the Act and this is exactly what this dissertation will similarly focus on, with it focusing on the implications of the Zambian legislation and the position of unmarried men and how it affects the legal access rights of the non-marital children <sup>19</sup>

**Obonye Jonas and Patrick Gunda** in the Article "Children *born* out of wedlock and their right to inherit from their fathers under customary law in Botswana – *Baone Kealeboga & Anor v Tidimalo Mercy Kehumile & Anor* discussed *the mentioned* landmark

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<sup>17</sup> Van Erk v Holmer 1992(2) SA 636 (W)

<sup>18</sup> Abdul Rokhim, The position and legal status of children out of marriage reviewed based on legal provisions in Indonesia, universitas 17 August 1945 Samarinda, Kalimantan Timur, Indonesia.

<sup>19</sup> Tholaine Matadi , Parental responsibilities and rights of unmarried fathers under the south African children's Act 38 of 2005: a critical analysis of selected recent case laws (2011)

case in Botswana that *challenged* the customary law rule prohibiting children born out of wedlock from inheriting from their fathers highlighting the implications for children's rights and equality because in the case the general rule was that children born out of wedlock could not inherit from or through their fathers and this particular fact is a barrier that is still faced under the Zambian family law legal frame work because the child being a non-marital child causes a lot of hindrance on the rights of the child all because they are not children of a marriage hence this dissertation will address the said gaps in the current legislations of Zambia as well<sup>20</sup>.

**Meera Nair** in this Article "Paternity in non-marital Births: status and Rights of Non-marital children in India" critiques the legal status on non-marital children in India discussing how laws based on marital status effect the recognition of paternity and the rights of these children it was brought out that paternity is as essential as maternity for the child's growth, emotional well-being and psychological development, it also talked about how paternity based on marital presumptions for ascribing parental rights and responsibilities to men is a clear violation of equitable doctrines just like how this dissertation will also be focusing on the rights of the non-marital children and making sure that even in practice the "best interest of a child principle" is always first priority.<sup>21</sup>

**Lawrence Schafer** in his comparative study looked at unmarried fathers and their children while comparing the English law with Australian and south African law in his study he provided a comparative analysis of how unmarried fathers are treated in English ,Australian and south African law focusing on the parental rights and access to children just like so will this dissertation be looking at the laws of Zambia while drawing some lessons from south African and Kenyan law in order to help find adequate ways to fill in the gaps of the family law legal system when it comes to the particular topic of non-marital children's access rights to their father.<sup>22</sup>

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<sup>20</sup> Obonye Jonas and Patrick Gunda , "Children *born* out of wedlock and their right to inherit from their fathers under customary law in Botswana – *Baone Kealeboga & Anor v Tidimalo Mercy Kehumile &Anor*

<sup>21</sup> Meera Nair, "Paternity in non-marital Births: status and Rights of Non-marital children in India" 6(2) IJLMH (2023)

<sup>22</sup> Lawrence Schafer ,Unmarried fathers and their children ; A comparative study of English ,Australian and South African law (2005)

**Chanell Scheepers** under the thesis “The general responsibilities and rights of an unmarried father in terms of the children’s Act 38 of 2005 “explored how the children’s Act of 2005 impacted the acquisition of parental responsibilities and rights by unmarried fathers in south Africa and highlighted the Act’s progressiveness and areas needing improvement . Herein the author of this dissertation is also focusing on exploring how the children’s code Act 2022 of Zambia, the Matrimonial causes Act influences the acquisition of parental responsibilities, and rights by unmarried fathers and the non-marital children’s access rights.<sup>23</sup>

Looking at the above written works of different scholars that have looked at the aspect of this dissertation , this particular dissertation while relating to the above is aimed at addressing gaps in the Zambian law such as , how the Zambian law doesn’t provide a clear statutory framework guaranteeing the right of non-marital children to access to their father especially where there is no legal custody or maintenance order which then may cause the fathers to be excluded from a child’s life, and children may grow up without legal or social recognition of that paternal relationship. Therefore the aim is then to advocate for legal reforms that explicitly recognize and protect the right of non-marital children to access and build a relationship with their fathers.

Another issue that will be addressed while regarding to the above literature review is the weak enforcement of the “Best interest of the child “principle because although the children’s code act in section 3 recognizes the best interest of the child this principle is not consistently applied in custody or access cases involving non marital children and this gap in the law has caused dispute between the parents and then the child’s emotional and development needs have usually been sidelined. Hence with reference to the above this dissertation will aim to reinforce the importance of consistently applying the best interests of the child as a guiding legal standard, informed by practices from Kenya and South Africa.

The other gap is that there is limited judicial precedents or case law development which causes there being limited Zambian case law that develops the rights of non-marital

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<sup>23</sup> Chanell Scheepers under the thesis “The general responsibilities and rights of an unmarried father in terms of the children’s Act 38 of 2005 “

children in the context of access to their fathers, therefore this dissertation support the development of rights based jurisprudence in Zambia by drawing from more developed South African and Kenyan case law.

## 7. METHODOLOGY

The study's research approach is that of a qualitative type, which is ideal for this type of legal research .The qualitative method technique is the most ideal since it requires intensive data collecting and allows the researcher to draw various or distinct forms of information, which will focus in data collection, analysis and writings connected to the study.

### 7.1.1. RESEARCH APPROACH

This study will use a qualitative research approach, which means the information will be gathered from primary and secondary sources such as books, articles, scholarly writing, newsletters, interviews as well as legislation journals when necessary.

### 7.1.2. RESEARCH DESIGN

Because the research method being used in this dissertation is qualitative. The research design that will be used is evaluation research this being due to the fact that this design focuses on the collecting and analyzing of data to access the impact of effectiveness of a particular law or practice . This further allows for a comprehensive examination on the Zambian legal system to that of South Africa and Kenya. Further this research will be designed to extract critical lessons from South Africa and Kenya as their legislation on the subject matter has a stronger legal structure ,providing useful lessons that Zambia's current legislation like the children codes Act and family law legal framework lacks .

### 7.1.3 RESEARCH TYPE

The investigation is analytical in nature, because it seeks to analyze the adequacy and inadequacies of the existing Zambian children's code Act and the practices under the family law courts when it comes to the non-marital children's access rights to their father and vice versa.

## 8. STUDY POPULATION

The population for this study will be drawn from Zambia, specifically cases from the family court Children's division in the specific subject matter in order to see how many cases of non-marital children and their access rights have been dealt with over the years until date.

## 9. SAMPLING TECHNIQUE

In this research convenience sampling will be used which will be done by interviewing the targeted population through their preferred mode of communication either physically or electronically and their place of convenience.

## 10. DATA COLLECTION

The information that will be used in this research will be secondary data that will be gathered from Acts, books, journal articles and regulations. The study will also include primary data collected through interviews conducted on the study population targeted. Secondary data gives important background and comparative information as well as context for the research.

## 11. DATA ANALYSIS

This research will have a qualitative data analysis and this entails acquiring all relevant information from various sources, assessing it and picking the data that will be most useful and relevant. The data will next be organized in a way that leads to an appropriate conclusion for this study.

## 12. ETHICAL CONSIDERATION

The researcher will adhere to all applicable ethical standards that may arise throughout this research. The researcher will also make every effort needed to adhere to academic writing practices such as referencing and acknowledging other people's work. This researcher will also ensure that all information received in confidence during this research remains confidential, and that only information consented to be produced. In addition, in order to maintain the required ethical standards, the author of this dissertation shall seek permission from the University of Lusaka before commencement of the research.

## CHAPTER TWO

### **AN EXAMINATION OF THE INTERNATIONAL AND REGIONAL LAWS ON NON-MARITAL CHILD'S RIGHT TO CONTACT AND ACCESS THEIR FATHER.**

#### 2.1 INTRODUCTION

This chapter examines the international and region legal frameworks / instruments that recognize and protect the rights of non-marital children to access their biological fathers. It will explore the key obligations instruments like the **United Nations Convention on the Rights of a child (UNCRC)** and the **African charter on the rights and welfare of the child (ACRWC)** have and impose on state parties like Zambia and the lengths to which they preserve principles of equality ,non-discrimination , parental rights and the best interests of the child . This chapter will then assess how these instruments influence domestic laws in Zambia, South Africa and Kenya, giving a lesson drawing and comparative perspective on legal protections of non-marital children, hence it begins with **analyzing relevant international human rights treaties** then after it shall review the **regional African legal frameworks** therefore then looking at the key principles raising from these instruments and their implications for Zambia's legal framework.

#### 2.2 INTERNTIONL LEGAL FRMEWORKS

##### 2.2.1 United Nations convention on the Rights of the child (UNCRC 1989)

The UNCRC is a cornerstone and the most comprehensive international treaty that sets out the civil political, economic, social and cultural rights of children. Key provisions relevant to non-marital children include;

**Article 2(Non- discrimination):** Prohibits discrimination against children based on the marital status of their parents. The article emphasizes that all children must be treated equally regardless of their parent's marital status and this also aligns in the aspect of inheritance and child maintenance and protection.

**Article 7 (Right know and be cared for by parents):** Recognizes the child's right to know and be cared for by both their parents, irrespective of marital status because this helps the child create a good parent and child bond which is in their best interest as a

child this article goes hand in hand with article 8 which talks about preservation of identity which recognizes the primary role of parents in raising and guiding the child.

**Article 9 (Separation from parents):** Ensures that all children shall not be separated from any of their parents against their will Article 9(3) provides that states must respect the child's right to maintain personal relations and direct contact with both parents regularly but this can be changed only if it is in the child's best interest. This provision is particularly relevant for non-marital children, who are mostly denied access to their fathers due to legal or social barriers. The UNCRC places an obligation on states to facilitate and protect this contact, regardless of marital status. .

**Article 18 (Parental Responsibilities):** Emphasizes that both parents have common responsibilities for the upbringing of the child hence none of them should be denied such privileges despite their marital status meaning that a mother to a child born out of wedlock has no right to deny the child's father the right to take care of his child and be present in their lives. <sup>24</sup>

**The committee on the rights of the child in General comment No.14**, has emphasized that the best interests of the child principle must guide all decisions relating to contact extends to children born outside marriage, it also highlights the fact that the processes affecting the child should be explicit, reasoned and documented with mechanisms to review and correct decisions that don't properly serve the child's best interest. The committee has constantly called on states to remove discriminatory laws that restrict paternal involvement based on marital status<sup>25</sup>

The above provisions show the principles that children born outside marriage should enjoy the same rights as marital children, including access to both parents.

## 2.2.2 INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS (ICCPR 1966)

The ICCPR to which Zambia is a party to embodies the right and protection to family life under **Article 23** this article recognizes the family as the natural and fundamental unit in society, entitled to protection but then while this provision primarily focuses on the "family

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<sup>24</sup> Ibid 1

<sup>25</sup> Committee of the rights of a child , General comment No.14

unit “, the human rights committee has further looked at this right broadly to include the maintenance of personal relations between parents and children regardless of their parents marital status.

**Article 24 (Rights of the child ):** This article ensures every child’s right to measure of protection without discrimination on grounds of birth , requiring states to ensure appropriate measures of protection. <sup>26</sup>

### 2.2.3 Convention on the Elimination of all forms of discrimination against women (CEDAW, 1979)

**Article 16 (equality in marriage and family Relations)** this article requires states to eliminate discrimination against women in marriages and family relations which it then also indirectly protecting children from discriminatory practices based on parental marital status. Although the CEDAW’s primarily focus is women’s right, it also makes sure there is equal responsibilities of both parents in the upbringing of their children. Furthermore the CEDAW committee has recognized that gender stereotypes and discriminatory family laws can indirectly harm children by limiting the role of fathers in their lives, particularly where the law assumes that custody and access of non-marital children should primarily rest with the mother. <sup>27</sup>

The **Hague convention on the civil Aspects of international child Abduction 1980** under article 13(b) says that while dealing with cross boarder custody disputes reflects the principle that a child’s relationship with both parents must be preserved unless contrary to their welfare.<sup>28</sup>

### 2.2.3 REGIONAL LEGAL FRAMEWORKS

#### 2.3.1 African charter on the rights and welfare of the child (ACRWC, 1990)

The ACRWC is an instrument that was ratified by Zambia in 2001, and it mirrors most of the provisions of the UNCRC but it offers additional clarity in the African context.

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<sup>26</sup> International covenant on Civil and Political rights (ICCPR) 1966

<sup>27</sup> Convention on the elimination of all forms of discrimination against women (CEDAW 1979)

<sup>28</sup> Hague convention on the civil aspects of international child abduction 1980

**Article 3 (NON-DISCRIMINATION)** This article talks about how every child regardless birth status is entitled the enjoyment of the rights and freedoms recognized in this charter. The Committee under the African children's charter underlines the fact that discrimination on whatever ground puts in peril the principle of universality of birth registration. Therefore, discrimination on the basis of the marital status of the child's parents or on the basis of gender should not prevent the child from carrying the name of either or both his/her mother and father.<sup>29</sup>

**Article 4 (BEST INTEREST OF THE CHILD)** this article states that in all the actions affecting or concerning the child undertaken by any person or authority the best interest of the child must be the primary consideration it further goes on in subsection (2) to say that in all judicial or administrative proceedings affecting a child who is capable of communicating his or her views and opportunity shall be provided for the views of the child to be heard.

**Article 19 (Parental care and Protection): subsection (1)** states that every child shall be entitled to the enjoyment of parental care and protection from both parents whenever possible and hence the children have the right to reside with their parents it further states that No child shall be separated from his parents against their will except when judicial authority determines in accordance with appropriate law that such separation is in the best interest of the child. **(2)** Goes on to state that every child who is separated from one or both parents shall have the right to maintain personal relations and direct contact with both parents on a regular basis. The Committee of the African children's charter also recalls the right of every child to the enjoyment of parental care and protection and whenever possible, the right to reside with his/her parents

**Article 20 (Responsibilities of parents):** holds both parents accountable for the child's upbringing, regardless of marital status.<sup>30</sup>

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<sup>29</sup> Article 3 African children's charter

<sup>30</sup> African charter on the rights and welfare of the child (ACRWC, 1990)

### 2.3.2 African charter on human and Peoples rights (ACHPR 1981)

**Article 18(Protection of the family )** in subsection (3) states that the state shall protect the rights of a child as stipulated in international declarations and conventions and it guarantees the protection of the family unit which extends to non-marital children safeguarding the father-child relationship where it is in the child's interest.

### 2.2.3 Southern African development community (SADC) protocol on gender development

Although it is not a child specific instrument, the SADC protocol advocates for the elimination of Gender-based discrimination in all spheres, including the family. By promoting shared parental responsibilities, it indirectly supports the rights of children, particularly non-marital children to maintain a meaningful relationship with their fathers.

The European court's ruling in *zuanegger v Germany 22028/04. Judgement 3.12.2009[section v]* shows that automatic exclusion of unmarried fathers from custody decisions violates fundamental rights to family life and non-discrimination. Zambia's current framework as seen in the case of *chafungwa v roos* (2021) mirrors Germany's outdated law by denying unmarried fathers' rights without assessing the child's best interest. Under ACRWC article 19 and UNCRC article 9 Zambia must reform its laws to require individualized evaluations which is a principle already adopted in South Africa and Kenya.<sup>31</sup>

## 2.4 COMPARATIVE ANALYSIS: SOUTH AFRICA AND KENYA

### 2.4.1 South Africa's Legal Framework

South Africa's progress legal system aligns closely with the international standards below are some of its legislation that talks about the matter of non- marital children and their fathers.

**Constitution of South Africa (1996) section 28 (1) (b)** Guarantees every child the right to parental care.<sup>32</sup>

### Children's Act 38 of 2005

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<sup>31</sup> Zaunegger v Germany 22028/04. Judgement 3.12.2009[section v]

<sup>32</sup> Constitution of south Africa (1996)

**Section 21:** Grants unmarried fathers automatic parental rights if they meet certain conditions like contributing to the child's upbringing. *Anayo v Germany (2010)* brings out a principle that focuses on respect and protection under article 8 of the European convention that should be given to the relationship between an unmarried father and his child and so the court emphasized that the legal framework must be in place to allow for the development of such a relationship. This case therefor strengthens the argument that the state has a positive obligation to facilitate and not hinder the relationship between non-marital children and their fathers hence Zambia's failure to provide a clear statutory framework for the access rights could be deemed as a failure to this set positive obligation.<sup>33</sup>

**Section 31:** Ensures that a child's best interest are paramount in custody and access dispute also in the case of *Nueliger and shuruk v Switzerland (2010)* the courts stated that the best interest of a child are the paramount and must be the primary consideration in any decision concerning the child it also stated that this is not just one consideration among many but the fundamental starting point. Therefore this principle established in the case over rules outdated cases like *Chibesa v Chibesa* that presume that the mother of a child is the best care giver to the child which doesn't fully look at the child's best interest but instead is a mere presumption by the Zambian courts .<sup>34</sup>

South African courts have reinforced these rights in the case of Van *Erk v Holmer 1992 (2) SA 636(W)* where the court ruled that a biological father's duty of support arises from paternity, justifying his right to access.<sup>35</sup>

#### 2.4.2 Kenya's Legal Framework

Kenya's legal reforms provide for strong protections for non-marital children:

**Constitution of Kenya 2010, Article 53(1)(e):** Guarantees every child the right to parental care .<sup>36</sup>

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<sup>33</sup> Anayo v Germany (2010)

<sup>34</sup> Children's Act 38 of 2005

<sup>35</sup> Ibid 16

<sup>36</sup> Ibid 4

**Children's Act (2022), Section 32:** Grants equal parental responsibility to both parents, irrespective of marital status.<sup>37</sup>

Kenyan courts have consistently upheld these principles, ensuring that non-marital children are not disadvantaged

## 2.5 CRITICAL ANALYSIS OF ZAMBIA'S COMPLIANCE

Despite ratifying the UNCRC and ACRWC, Zambia's domestic laws lag behind:

**Children's code Act (2022), Section 121;** states that non-marital children should have equal rights, but in practice courts often favor mothers like seen in the case of ***Chafungwa (suing in his capacity as beneficiary of the estate of Sumpi Chafungwa) v Roos and Anor (HPF 519 OF 2021) [2021] ZMHC (29 December 2021)***<sup>38</sup>

**Births and deaths registration Act: section 15** requires a mother's consent for a father to be registered as the father of his non-marital child and this disadvantages the unmarried fathers<sup>39</sup>. Whereas in the case of ***Gambia v Myanmar ICJ GL No 178 the*** ICJ's provisional measure underscore that denying children legal ties to their parents violates fundamental human rights just as seen in Zambia's births and deaths registration act section 15 which conditions a father's recognition on the mothers consent deprives non-marital children of their **right to identity and family life** which is under article 7 of the UNCRC and article 19 of the ACRWC. Zambia must reform its laws to ensure no child is disadvantaged by birth status and this principle is already enforced in Kenya and South Africa. It also constitutes an irrefutable proof of a child's lineage against the risk of disinheritance of property particularly for orphans or children born out of wedlock.<sup>17</sup> finally, the right to birth registration is closely related to the right of children to know and to be cared for by their parents. <sup>40</sup>

In addition to these Acts Zambia's dual legal system (statutory and customary law) further complicates enforcement, as customary norms often prioritize marital legitimacy. ***Germany v Italy (2012)*** challenges customary law barriers found in Zambia meaning that

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<sup>37</sup> Ibid 5

<sup>38</sup> Ibid 2

<sup>39</sup> Births and Deaths Registration Act chapter 51 of the laws of Zambia

<sup>40</sup> *Gambia v Myanmar ICJ GL No 178.*

Zambia must conform to human rights treaties and their laws. The ICJ's ruling in this case establishes that states cannot invoke domestic legal traditions to avoid international law. Zambia's customary norms denying non-marital children parental access conflicts with its obligations under article 3 of the ACRWC and article 2 of the UNCRC therefore just as Italy was barred from disregarding state immunity, Zambia must reform its Births and Deaths Registration Act and override discriminatory customs just like South Africa did in ***Van Erk v Holmer***.<sup>41</sup>

Further in the case of ***Nubian minors v Kenya (2011)*** the principle saying that denying children birth registration and legal identity based on their parents status is a violation of their rights and is not in their best interest was established in the case.

Seeing the above European cases and other cases of different jurisdictions that have been cited and decided by the European courts show how Zambia has precedence to use these cases because it has ratified the African charter which under article 60 allows for its state parties to make reference to other international or regional conventions in order to get guidance to inform its understanding and also Article 61 of the charter allows the commission to use other conventions and sources as formal legal tools to help determine the correct principles of law in a specific case hence this is why they are being cited and aligned with the articles in the different conventions that have been mentioned above.

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<sup>41</sup> Germany v Italy (2012)

## **CONCLUSION**

International and regional instruments provide a strong foundation for protecting non-marital children's rights to access their fathers. They establish clear obligations on state parties to ensure non-discrimination, equal parental responsibilities and prioritization of the child's best interests. However Zambia's legal framework remains inconsistent with these standards compared to Kenya and South Africa and Kenya, which have implemented progressive reforms.

Hence going forward the next chapter will assess Zambia's domestic laws in practice, identifying gaps and proposing reforms to align with international obligations.

## CHAPTER 3

### **LAW IN PRACTICE IN ZAMBIA GOVERNING A NON-MARITAL CHILD'S RIGHT TO ACCESS THEIR FATHER.**

#### 3.1 INTRODUCTION

This chapter will examine how the legal rules governing non-marital children's right to access to their fathers operate in Zambia, it moves from the theoretical framework that was established in chapter 2 to a more practical assessment of the Zambian legal system operation. The primary objective is to critically evaluate the efficacy of the laws governing a non-marital child's right to access and maintain a relationship with their father. This chapter will set out the statutory framework, summarize the leading judicial pronouncements, and analyze how the courts and other institutions apply the law when disputes arise over access and parental responsibility.

While chapter 2 showed the constitutional and statutory provisions that *de jure* guarantee this right, chapter 3 then comes in to investigate the *de facto* reality of the matter at hand. It will analyze how the courts interpret and apply these laws, how they identify the procedural and substantive obstacles faced by children and guardians it further exams the gap between legislative intent and practical outcomes. The analysis will be supported by relevant Zambian case law and statutes in order to provide a concrete understanding of the legal landscape.

#### 3.2 THE LEGISLATIVE FRAMEWORK

##### 3.2.1 The constitution of Zambia (Amendment) Act No.2 of 2016:

Article 23 brings about the protection against discrimination on grounds race etc. it then states that no law shall make any provisions that is discriminatory either of itself or in itself. Although 23(4) exempts for discrimination in areas of adoption, marriage, personal law etc., which has historically been a significant setback, even though its application is being progressively narrowed by courts because when it comes to access cases of non-marital children there tends to be a lot of discrimination on the parts of the father.<sup>42</sup>

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<sup>42</sup> The constitution of Zambia (amendment) Act No.2 of 2016

### 3.2.2 The development of the law governing child protection in Zambia

### 3.2.3 Affiliation and Maintenance of Children Act (Cap.64) & Legitimacy Act (Cap 52)

The laws governing children have developed over the years. Before the Children's code was enacted, the children protection laws were fragmented and the provisions governing paternity, affiliation and maintenance were found in the affiliation and maintenance of children Act (1995) and Legitimacy Act.

These laws reflected a more traditional and highly restrictive approach that prioritized marital status over the child's right to parental care and their best interest.

Under the Legitimacy Act, a child born out of wedlock was regarded as illegitimate and on law considered to have only one legal parent who is the mother. The father had no automatic parental rights or responsibility over such a child. The Act allowed a child's status to be changed from illegitimate to legitimate only if the biological parents subsequently got married to each other.

As a result, children whose parents never married remained legally excluded from their father's families, names, and property, regardless of the father's willingness to assume responsibility. The Act therefore reinforced the notion that family legitimacy and paternal recognition depended on the institution of marriage rather than the existence of a biological relationship.

The Affiliation and Maintenance of Children Act, on the other hand, dealt mainly with financial obligations of unmarried fathers. It allowed the mother of the non-marital child to apply to the courts for an affiliation order which compelled the father to provide maintenance for the child once paternity was proven, however, the Act did not grant the father any rights of custody, guardianship, or access; therefore, his role was limited to only being a financial provider and only if granted permission by the courts after a formal finding of paternity. This meant that in practice, fathers of non-marital children had no legal authority to participate in their child's life or upbringing or even have contact with the child unless permitted by the mother.

Together, these two statutes created a discriminatory and highly unequal legal framework that treated non-marital children as inferior and marginalized their fathers because the law recognized only the mother as sole parent ad guardian while the father's connection to his child depended on the mother's consent or a maintenance order, this approach was inconsistent with international human right principles that Zambia had already ratified such as the UNCRC and ACRWC which both guarantee equality and the right of every child know and be cared for by both parents .<sup>43</sup>

The Children Code Act of 2022 was then therefore introduced to modernize and harmonize Zambia's child law framework, its inaction repealed and replaced outdated provisions which were in the legitimacy and Affiliation and maintenance of Children Act ensuring that all children whether born inside or outside marriage enjoy equal rights to parental care, contact and protection and that both parents share responsibility towards their child irrespective of marital status. The Children's code Act is now the main consolidated statute in Zambia that governs children's rights, parental responsibility, custody, maintenance and other matters relating to children and Zambian family law. The Act states that every child has a right to be cared for and live with both their parents, the Act sets out the concept of parental responsibility and contains provisions relating to custody and access rights. The children's code further on expressly recognizes routes by which fathers may acquire parental responsibility some highlighted sections of the Act could be **Section 4** that looks at the best interest of a child which is the paramount principle that is to be followed whenever a decision concerning a child is made, **Section 5** gives a right to parental care to a every child regardless of their parents marital status this section also gives them right to know and be cared for by both their parents lastly Section 9 give the children rights to maintain contact with their parents on a regular basis ,unless it is contrary to the child's best interest. <sup>44</sup>

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<sup>43</sup> Ibid 12

<sup>44</sup> The Children's code Act 2022 (Act No. 12 of 2022)

### 3.3 Judicial approach: the paramount of the child's welfare and access for illegitimate fathers.

#### 3.3.1 "The welfare of the child "principle

Zambian courts consistently state that the welfare or best interest of the child is the paramount consideration in any custody or access decision. This is an established judicial principle appearing both in legislation and repeated in high court and Supreme Court decision addressing custody and access, including cases involving children born outside marriage. In the case of ***Janet Phiri another v Nelson (HPF 124 of 2019) 2020 ZMHC 323(25<sup>TH</sup> February 2020)*** the courts highlighted how the best interest of a child and their welfare must be the paramount and primary consideration taking in account the rights and duties of the parents ,legal guardians or any other person legally responsible for the child. <sup>45</sup> Also in the case ***Machayi Kasaji v Jessy Mulosa HPF 445 of 2023)2024 ZMHC (28<sup>TH</sup> March 2024)*** Judge D.M Malama stated how paramount it is for the courts to look at the best interest of the child before looking at the wants of the parents especially in cases of children born out of wedlock, the courts further stated that in cases of children born out of wedlock the fact of one being the mother of the said child doesn't guarantee them custody because when the best interest of a child is looked at it can be found that the child in contention is better off with their fathers<sup>46</sup>.

#### 3.3.2 Access rights for fathers of children born out of wedlock

The modern trend in Zambia jurisprudence is to recognize that non marital fathers can have rights to have rights of access and may in appropriate circumstances be granted custody or parental responsibility where that serves the children's welfare . Zambian high court authorities have applied the welfare principle to grant access or to refuse it where access would be contrary to the child's best interest. Recent Zambian judgments emphasize that while legitimacy (marital status) is not decisive, paternity must be properly established and the effect of access on the child's welfare must be assessed. In the case of ***Rohanna Myra Debrah Peterson v Homan (HPF 282 OF 2019)2020 ZMHC 325 (17<sup>TH</sup> April 2020)*** the courts stated that according **section 14(1) of the legitimacy Act** the high

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<sup>45</sup> Janet Phiri another v Nelson (HPF 124 of 2019) 2020 ZMHC 323(25<sup>TH</sup> February 2020

<sup>46</sup> Machayi kasaji v Jessy mulosa (HPF 445 of 2023)2024 ZMHC (28<sup>TH</sup> March 2024)

court may upon the application of either parent of an illegitimate infant, make such an order as it may think fit relating to the custody of such infant and the right of access thereto of either parent. While getting precedence from the case *In RE O (Infants)* the courts ruled that “there is no rule that little children should be with only their mother, any more than there is a rule that boys approaching adolescence should be with their father, it all just depends on what is proper in each individual case and the best interest of the child.” What is of paramount importance is where the best interest of the child lies.<sup>47</sup>

### 3.4 Law in practice – Patterns, Obstacles and Judicial Techniques

#### 3.4.1 Establishing paternity in practice

In practice, non-marital fathers often must first establish paternity before seeking access or parental responsibility. Courts accept range of evidence like acknowledgement of paternity, DNA tests, conduct of the parties etc. but in many cases the absence of formal paternity findings delays or complicates access applications.

#### 3.4.2 Intersection of maintenance proceedings and access rights.

Courts in Zambia frequently hear maintenance and access disputes together. There is a practical linkage; custodial parents may resist granting access where they feel the other parent has not complied with maintenance responsibilities and the judges will often consider both welfare and the parent’s conduct, however the law does not make access conditional on maintenance payment the courts test remains the child’s welfare. Practical enforcement gaps in maintenance orders and delays can nonetheless affect the exercise of access rights on the ground.<sup>48</sup>

#### 3.4.3 Cultural and social barriers

Customary practices and social attitudes sometimes prevent non-marital fathers from exercising access rights in practice. Stigma associated with non-marital birth, variable awareness of legal rights among litigants and resource constraints mean that access orders maybe under-enforced or negotiated informally rather than implemented through

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<sup>47</sup> Rohanna Myra Debrah Peterson v Homan (HPF 282 OF 2019)2020 ZMHC 325 (17<sup>TH</sup> April 2020)

<sup>48</sup> Ibid 42

the courts , NGO and government reports note these enforcement and awareness challenges.

### 3.4.4 Judicial remedies and discretionary tools

In practice courts use different remedies: access orders with specific conditions, joint parental responsibility agreements, variation of custody orders and directions for social welfare reports. Zambian courts have shown willingness to adapt orders to the child's specific circumstances. Judges often call for social welfare input when assessing delicate access disputes.

### 3.5 Comparative Signals

While this objective concerns Zambian practice, it is helpful that we take note of the path taken by nearby jurisdictions such as South Africa, which has moved towards recognizing non-marital father's rights where this is in the child's welfare. These comparative developments provide persuasive reasoning and practical models (parental responsibility agreements, early paternity establishments and welfare-led access frameworks) that Zambia's courts and policymakers already reference in practice.<sup>49</sup>

### 3.6 Gaps between statutes and the law in practice

**1. Paternity proof delays-** Litigants often face delays and costs in obtaining DNA or formal paternity determinations; until paternity is established courts are cautious in awarding parental responsibility or unsupervised access.

**2. Enforcement of orders –** Maintenance and access orders are sometimes poorly enforce due to resource constraints and weak administrative follow-up; enforcement deficits undermine access in practice.<sup>50</sup>

**3. Awareness and social stigma-** both mothers and fathers may lack knowledge of legal rights and remedies , or cultural norms may discourage fathers from pursuing

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<sup>49</sup> W v F 1998(9) BCLR 1199 (N)

<sup>50</sup> Ibid 41

access or mothers from conceding it; this creates a gap between statutory entitlement and practical enjoyment.<sup>51</sup>

**4. Transitional complexity** – the shift from older statutes (Affiliation and Maintenance Act, Legitimacy Act) to the children’s code introduces transitional legal complexity: some case law still references repealed or older provisions, making practitioner guidance uneven.<sup>52</sup>

### 3.7 Recommendations

- **Judicial training on the children’s code:** ensure magistrates and judges apply the new code consistently and rely on child welfare assessments and social welfare reports when needed.

-**Streamline paternity determination:** make evidence of paternity (including affordable DNA testing) more accessible and expedite court procedures for affiliation matters so access applications are not unduly delayed.

-**Public legal education:** target custodial parents, fathers and communities with information campaigns about parental responsibility, access rights and routes to agreements outside court (mediation).

- **Strengthen enforcement mechanisms:** improve administrative follow-up of maintenance and access orders (registries, support from social welfare service) to turn judicial orders into practicable arrangements.

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<sup>51</sup> State party report on the implementation of the concluding observations and recommendations on the African charter on the rights and welfare of the child

<sup>52</sup> Ibid 42

## **CONCLUSION**

In Zambia the legal framework now consolidated in the children's code 2022 recognizes the importance of parental responsibility and provides courts with broad powers to make custody and access orders. In practice Zambian courts treat the welfare of the child as paramount and will grant access to non-marital fathers where this serves the child's best interest. However, practical obstacles persist and limit full enjoyment social norms and transitional statutory complexity persist and limit full enjoyment of access rights in many cases. Improving paternity procedures, enforcement capacity and public legal education would help align law in practice with the law on the books.

## CHAPTER 4

# **A COMPARATIVE ANALYSIS OF LEGAL AND POLICY FRAMEWORK IN SOUTH AFRICA AND KENYA REGARDING ACCESS RIGHTS OF NON MARITAL CHILDREN**

## 4.1 INTRODUCTION

This chapter provides a comprehensive comparative analysis of the legal and policy frameworks in South Africa and Kenya that govern the access right of non-marital children to their biological fathers. It evaluates how these jurisdictions have addressed the challenges faced by non-marital children and their fathers and highlights progressive legal reforms that Zambia can draw lessons from. The analysis focuses on constitutional provisions, statutory laws judicial interpretations and policy initiatives that promote the best interest of the child and uphold principles of equality and discrimination , it will look deeply into the evolution of their statutory and constitutional protections and jurisprudential trends that have shaped inclusive family law. The main purpose or aim of this chapter is to extract actionable lessons for Zambia, whose legal framework remains fragmented and often discriminatory in practice.

## 4.2 SOUTH AFRICA'S LEGAL FRAMEWORK

### 4.2.1 Constitution Provisions

South Africa's Constitution (1996) is one of the progressive around the globe, practically in its protection in children's rights.

Under Section 28(1) b guarantees every child the right to parental care or to appropriate alternative care when removed from a family environment. Although the Constitution does not explicitly grant rights to the non-marital parents, in section 28(2) it places the child's best interest at the center of all matters concerning the child. This principle has been of crucial importance in shaping jurisprudence that recognizes the importance of both parents in a child's life, regardless of marital status hence it is seen that it creates a child-centered legal framework that indirectly protects parental access by emphasizing the child's right to family life and care. This constitutional orientation has influenced statutory reforms and judicial decisions that favor inclusive parenting regardless of marital status.<sup>53</sup>

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<sup>53</sup> Ibid 31

#### 4.2.2 Children's Act 38 of 2005

The children's Act is the cornerstone of child's welfare legislation in South Africa. It provides a progressive framework for the recognition of parental responsibilities and rights, including those of unmarried fathers. Section 21 of the Act states the conditions on which unmarried fathers acquire automatic parental rights and responsibilities, such as living with the mother at the time of the child's birth or contributing to the child's upbringing.

This provision marks a departure from earlier common law positions that treated unmarried fathers like legal strangers to their own children. The Act also allows fathers to apply to the High court for access, custody or guardianship if they do not meet the automatic criteria set up.<sup>54</sup>

#### 4.2.3 Judicial Interpretation and case law

South Africa courts have played a critical role in interpreting and enforcing the rights of non-marital fathers. In cases such as ***van Erk v Holmer and Fraser*** children's court, the judiciary emphasized the importance of biological fathers in upbringing of their children and challenged discriminatory practices that excluded them. These rulings have then reinforced the constitutional mandate to treat all children equally and uphold their right to family life.<sup>55</sup>

In another case of ***Fraser v children's court, Pretoria North 1997(2) SA 261 (CC)***, the courts struck down provisions of the child care Act that excluded unmarried fathers from adoption proceedings, ruling that such exclusion violated the equality clause.<sup>56</sup> These cases reflect a jurisprudential shift toward recognizing the importance of paternal involvement, even outside marriage.

#### 4.2.4 Policy Initiatives

South Africa has also implemented child protection policies that promote access and contact between children and both parents' social welfare programs and mediation

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<sup>54</sup> Ibid 33

<sup>55</sup> Ibid 16

<sup>56</sup> *Fraser v children's court, Pretoria North 1997(2) SA 261 (CC)*,

services aim to resolve disputes amicably and prioritizes the child's emotional and psychological well-being, some of the policy and administrative measures they have put up in South Africa are;

**Family mediation services:** these are offered through the family office of the family advocate to resolve disputes amicably.

**Parenting plans:** This is encouraged under section 33 of the children's Act to help formalize access arrangements between the two parents.

**Social welfare programs:** Designed to support single-parent households and promote co-parenting.

These measures operationalize the legal framework and ensure that access rights are not merely theoretical but also practically enforceable.

## 4.3 KENYA'S LEGAL FRAMEWORK

### 4.3.1 Constitutional Provisions

Kenya's constitutional of 2010 , under Article 53(1)(e) , states that every child has the right to parental care and protection and that both parents bear equal responsibility , whether married or not. This provision is a direct recognition of rights of non-marital children and their fathers, and it sets a strong foundation for legal reforms. The constitution also incorporates international treaties into domestic law under Article 2(6), meaning the instruments like the UNCRC and ACRWC have direct legal effect in Kenya. Therefore this enhances the enforceability of children's rights and aligns domestic law with global standards.<sup>57</sup>

### 4.3.2 Children Act 2022

The children Act of 2022 replaced the earlier 2001 Act and introduced several reforms which strengthens and gives more weight to the rights of non-marital children. Section 32 of the Act explicitly states that both parents have equal responsibility over the child, regardless of marital status. It provides mechanisms for establishing paternity and enforcing access rights, including mediation and court orders, it also provides for

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<sup>57</sup> Ibid 4

establishment of paternity through DNA testing or acknowledgement, Access and custody application by either parents, Mandatory consideration of the child's best interest in all proceedings.

The Act also creates the national council for children's services, tasked with monitoring compliance and promoting child welfare.<sup>58</sup>

#### 4.3.3 Judicial interpretation

The Kenyan courts have increasingly adopted a child-centered approach in access and custody cases. In the case of *J.O v S.A.O [2016] KECA 55(KLR)*, the court ruled that denying a father access to his child based solely on marital status was unconstitutional and going against the best interest of the child which is supposed to be the paramount thing to be considered in such cases. Such decisions have helped dismantle discriminatory practices and promote inclusive family law jurisprudence.<sup>59</sup>

Also in the case of *Z.A.O v A.M.O [2016] Eklr* the High court ordered joint custody and equal access rights citing the children's Act and the constitution. The cases demonstrate a growing judicial commitment to dismantling discriminatory norms and enforcing equal parental responsibility' <sup>60</sup>

#### 4.3.4 Policy and Administrative Measures

Kenyan's legal reforms are supported by administrative measures such as child welfare committees and family mediation services. These initiatives aim to ensure that children maintain meaningful relationships with both their parents and that disputes are resolved in a manner that prioritizes the child's development and well-being. It has developed institutional mechanisms to support access rights such as ; Children's courts which are specialized courts that handle child related matters, Child welfare committees which are established under the children's Act to oversee local implementations and also Legal Aid programs that provide support to parents seeking access or custody.

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<sup>58</sup> Ibid 5

<sup>59</sup> *J.O v S.A.O [2016] KECA 55(KLR)*

<sup>60</sup> *Z.A.O v A.M.O [2016]Eklr*

These structure put up in Kenya ensure that legal rights are supported by administrative capacity and community engagement’

#### 4.4 Lessons for Zambia

The legal and policy frameworks in South Africa and Kenya offer valuable lessons for Zambia in addressing the rights of non-marital children and their fathers, hence the key takeaways include;

**-Recognition of equal parental care ad responsibility;** both countries have **enshrined** equal parental responsibility in their constitutions and statutes making sure that fathers are not excluded from their children’s life based on marital status.

**-Child-centered Legal Standards;** the consistent application of the” best interest of the child” principle has guided judicial decisions and policy reforms in Kenya and South Africa the best interest of the child are consistently applied in judicial decisions . Unlike Zambian courts that often default to maternal custody without rigorous assessment of the child’s best interest and needs as seen in the case of ***Chibesa v Chibesa***. This practice contradicts section 3 of the Zambian’s children code Act, which prioritizes the child’s best interest.<sup>61</sup>

**-Accessible Legal Remedies;** mechanisms such as mediation, family courts and statutory provisions for paternity recognition provide practical avenues for enforcing access rights. Zambia lacks such mechanisms, leaving fathers with limited recourse when denied access.

**-Progressive Jurisprudence;** courts in both jurisprudence have actively challenged discriminatory norms and upheld the rights of non-marital children and their fathers.

**-Integration of international Norms;** Kenya’s constitutional incorporation of international treaties ensures alignment with global standards. Zambia, while a signatory to the UNCRC and ACRWC has not fully domesticated these instruments resulting in the gaps between international obligations and domestic practice.

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<sup>61</sup> Ibid 6

**-Institutional Support;** the presence of specialized courts, welfare committees and legal aid in South Africa and Kenya enhances enforcement of the law. Whereas Zambia's dual legal system often complicates access rights, especially where customary norms override statutory protections.

## CONCLUSION

South Africa and Kenya have made significant strides in reforming their family law systems to protect the rights of non-marital children and their fathers. Their legal frameworks reflect commitment to equality, non-discrimination and the best interest of the child. Zambia can benefit from these comparative insights by adopting similar reforms that align domestic laws with international human rights standards and promote inclusive family law practices.

To bridge this gap, Zambia must;

1. Amend discriminatory provisions in the Births and Deaths Registration Act and Children codes Act.
2. Establish clear legal remedies for access disputes.
3. Train judicial officers on the best interest principle.
4. Fully domesticate international treaties to ensure compliance and accountability.

By adopting these reforms, Zambia can move toward a more inclusive and child-centered family law system that respects the rights of children and their parents regardless of the marital status of the parents.

## CHAPTER 5

### **RECOMMENDATIONS AND CONCLUSION; REFORMING ZAMBIA'S LEGAL FRAMEWORK TO PROTECT ACCESS RIGHTS OF NON-MARITAL CHILDREN TO THEIR FATHERS.**

#### **5.1 INTRODUCTION**

This chapter gives and presents detailed recommendations for reforming Zambia's family law framework to better and protect the access rights of non-marital children to their biological fathers. It discusses the main issues emerging from the analysis of the Zambian legal framework in relation to non-marital children to access their fathers while drawing from the comparative analysis in chapter four which clearly identifies legislative policy, institutional gaps and proposes actionable reforms aligned with international human rights standards. This chapter also concludes the dissertation by summarizing key findings and emphasizing the urgency of legal transformation in Zambia it also draws conclusions based on these findings and purposes recommendations aimed at strengthening Zambia's child law regime to make sure that all children, regardless of the marital status of their parents, can effectively enjoy the right to parental care and contact.

The study established that Zambian laws offer very little to no protection for non-marital children's access to their fathers. While the constitution of Zambia in Article 24(2) guarantees equal treatment of all children regardless of their parents' marital status although there being this provision this principle has not been adequately operational in subsidiary legislation and judicial practice.

The legal process remains largely adversarial and maintenance driven often leading to situations where unmarried fathers are viewed primarily as financial providers sometimes not as essential emotional or developmental figures in their child's life.

##### **5.1.1 DISCUSSION OF KEY ISSUES**

###### **The Best Interest of the Child principle**

All three jurisdictions acknowledge that the best interest of the child should guide decisions about access. However, Zambia's framework lacks a clear statutory

mechanism for enforcing this principle in non-marital cases. Whereas South Africa and Kenya has this principle both constitutionally and legislatively, Zambia primarily relies on judicial discretion, which leads to inconsistent outcomes.

### **Parental Responsibility and Gender Bias**

Zambia's system continues to exhibit gendered assumptions about parenting where mothers are generally perceived as primary caregivers, whereas fathers are seen as secondary or financial supporters. In contrast Kenya's model imposes equal parental responsibility from birth, while South Africa recognizes fathers who demonstrate care and involvement. Zambia's current position unintentionally reinforces the exclusion of unmarried fathers which negatively impacts the child's right to family life.

### **Policy and Institutional gaps**

Zambia lacks a comprehensive national children's policy addressing non-marital family dynamics. The absence of social support structures such as family mediation, parenting plans and trained children's officers causes disputes over access often escalate into contentious legal battles.

South Africa's and Kenya's experiences demonstrate the importance of policy frameworks that operationalize children's rights through mediation, counselling and community support.

### **Socio-Cultural Attitudes**

Cultural perceptions in Zambia still tend to stigmatize children born outside marriage. This societal bias often influences family and judicial decisions with fathers sometimes discouraged from asserting their rights. Whereas in South Africa and Kenya through constitutional and policy reforms, have works to abolish discriminatory attitudes by affirming the equal status of all children and parents when it comes to rights over their non-marital children.

## 5.1.2 SUMMARY OF CHAPTERS

**CHAPTER ONE:** This chapter introduced the study by showing the background and context of the research. It also examined the challenges faced by non-marital children and their fathers in Zambia. The chapter further highlighted that despite Zambia's ratification of international human instruments such as the United Nations Convention on the Rights of the Child (UNCRC) and the African Charter on the Rights and Welfare of the Child (ACRWC), the domestic legal framework of Zambia still remains inadequate in guaranteeing the rights of non-marital children embodied in these international instruments. Laws such as the Births and Deaths Registration Act and Children Code Act No.12 of 2022 were identified as discriminatory because they require a mother's consent before a father can be legally recognized on a child's certificate. This chapter also highlighted the research objectives, questions and significance, emphasizing the need for Zambia to reform its legal system in line with international standards and to promote equal parental rights irrespective of marital status.

**CHAPTER TWO:** This chapter examined the international and regional legal framework that protect the rights of children to maintain contact and relationships with both parents, it analyzed key instruments such as the UNCRC (1989), ICCPR (1966) and CEDAW (1979), all of which uphold the principles of non-discrimination, equality and the best interest of a child. At the regional level, the African charter on the rights and welfare of the child (1990) and the African charter on human and people's rights (1981) were discussed showing their emphasis on the child's right to family life and parental care. The chapter also noted that while Zambia has ratified these instruments, it has fully domesticated or implemented them which has then resulted in inconsistencies between international obligations and national practice. It then concluded that Zambia's framework remains weaker compared to that of South Africa and Kenya which have effectively incorporated these international standards into their domestic laws.

**CHAPTER THREE:** The chapter scrutinized the law in practice in Zambia concerning the access rights of the non-marital children and their fathers. It evaluated how the existing laws particularly the Children Code Act are applied in real cases. Although the legislative framework recognizes the concept of parental responsibility, the chapter found that there are several gaps that persist in both enforcement and judicial interpretation. Zambian

courts generally affirm the principle of the “child’s best interest principle” but in practice decisions often favor mothers reflecting traditional gender biases. The chapter further discussed the practical challenges faced in access cases such as the difficulty in establishing paternity, weak enforcement of court orders and social stigma attached to children born out of wedlock. Nevertheless the chapter also highlighted and observed that some recent judicial decisions are moving towards more balanced outcomes that recognize the importance of fathers in a child’s upbringing.

**CHAPTER FOUR:** The chapter provided a comparative analysis of the legal and policy frameworks in South Africa and Kenya. It showed how both countries have made significant progress in strengthening the rights of non-marital children and their fathers. South Africa’s children’s Act 38 of 2005 grants unmarried fathers’ parental responsibility and rights once they have demonstrated commitment to the child, while the Constitution of South Africa (1996) gives every child a right to parental care. Also Kenya under its constitution of (2010) under article 53(1)(e) and its Children’s Act (2022) guarantee equal parental responsibility regardless of marital status. The courts of both countries have developed progressively in their case law that emphasizes the best interest of the children and non-discrimination. The chapter then concluded by showing how Zambia can draw important lessons from these jurisdictions, particularly the need to amend discriminatory provisions in its statutes, promote shared parental responsibility, strengthen institutional mechanisms such as family mediation and legal aid and integrate international child rights norms into domestic legislation.

## 5.2 LEGISLATIVE REFORM RECOMMENDATIONS

### 5.2.1 Amend the Births and Deaths Registration Act.

**Section 15** of the Births and Deaths Registration Act requires maternal consent for the registration of a non-marital father on a child’s certificate.<sup>62</sup> This provision is discriminatory and undermines the principle of equal parental responsibility therefore Zambia should amend this section to allow automatic registration of biological fathers upon proof of

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<sup>62</sup> Ibid 38

paternity through DNA testing or acknowledgement , just as done in South Africa under **section 21** of their Children's Act <sup>63</sup>

### 5.2.2 Strengthen the Children's Code Act

Even though the Children's Code Act No.12 of 2022 recognizes the best interest of the child, it still lacks enforceable mechanisms that help non-marital fathers to gain and assert access rights to their children. <sup>64</sup> Zambia should then revise the Act to include things like;

- Clear procedures which can be used by the fathers to apply for access and custody rights for their non-marital children.
- Recognition of equal parental responsibility towards the child regardless of marital status of the parents.
- Mandatory consideration of the child's emotional and psychological needs while asserting the best interest principle.

The above amendments to be made to the children's code Act of Zambia will then tally to the provisions under **section 32** of Kenya's children's Act which affirms equal parental responsibility to both parents.<sup>65</sup>

### 5.2.3 Harmonize statutory and Customary Law.

Zambia's dual legal system often results in customary norms and rules overriding statutory protections, especially in rural areas, therefore legislative reforms should include;

- A statutory override clause ensuring that Children's right under national law take precedence over customary practices
- Thorough training for traditional leaders on Children's rights and gender equality this will help the fathers get full parental rights over their non-marital children without being stripped away their rights by customary law.

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<sup>63</sup> Ibid 33

<sup>64</sup> Ibid 3

<sup>65</sup> Ibid5

## 5.3 JUDICIAL REFORM AND CAPACITY BUILDING

### 5.3.1 Promoting Child-Centered Jurisprudence.

Zambian courts often resort to maternal custody without rigorous application of the best interest principle just as seen in the case of ***Chibesa v Chibesa***, where the courts favored maternal custody without accessing the father's stability, also in other Zambian cases the Zambian courts recognize the best interest of a child principle, but its application tends to focus on marital custody disputes rather than non-marital relationships therefore many non-marital children are left dependent on the discretion of the mother to make decisions with limited legal recourse if denied access.<sup>66</sup> Therefore to override the principle of the above mentioned case and other Zambian cases judicial officers should be trained to;

- Avoid gender-based assumptions like (believing a mother has more capability of raising and taking care of the child compared to the non-marital father) in custody and access rights cases.
- Apply section 3 of the Children's Code Act consistently and not be biased instead when making rulings especially in non-marital children's cases.
- Consider the child's right to maintain relationships with both parents despite their marital status.

## 5.4 POLICY AND ADMINISTRATION RECOMMENDATIONS

### 5.4.1 Develop National Parenting Guidelines

Zambia lacks standardized parenting guidelines that promote co-parenting and access rights for children born out of wedlock, hence the Ministry of Community Development and Social Services should develop;

- Guidelines for resolving disputes and modifying access arrangements.
- Educational materials for parents on the importance of parental involvement despite the marital status of the parents.

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<sup>66</sup> Ibid 6

- Non-discriminatory Parenting plans that outline roles, responsibilities and access schedules for both parents.

#### 5.4.2 Strengthen Child Welfare Institutions

Child protection agencies should be empowered to;

- Monitor compliance with access orders.
- Intervene in cases of parental alienation.
- Provide counseling and support services to affected children.
- By doing so Zambia will strengthen the child welfare institutions as it will give them more intervention and power on the matters relating to access rights of children born out of wedlock just like South Africa's office of the family advocate plays key role in enforcing parenting plans and mediating disputes.<sup>67</sup>

#### 5.4.3 Launch Public Awareness Campaigns

Cultural stigma against non-marital fathers and children remains a barrier to reform therefore government and civil society should collaborate and make campaigns that;

- Promote the rights of all children regardless of their birth status.
- Challenge stereotypes about unmarried fathers and having access and being present in their children's lives.
- Educate communities on the legal and emotional importance of paternal access.

### 5.5 INTERNATIONAL AND REGIONAL ALIGNMENT

#### 5.5.1 Domesticating International Instruments.

Even though Zambia is a signatory to the UNCRC and ACRWC it has not fully domesticated these treaties into enforceable law hence the parliament should:

- Enact legislation that incorporates treaty provisions directly.
- Establish monitoring mechanisms to ensure compliance.
- Report regularly to treaty bodies on progress and challenges faced while taking up matters of access and custody rights of non-marital children.

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<sup>67</sup> Ibid 13

### 5.5.2 Collaborate with Regional Partners.

Zambia should engage with regional bodies such as the African union and SADC to,

- Share best practices on family law and share ways to handle matters like the one under this research.
- Harmonize legal standards across jurisdictions in order to adopt laws that will come in handy in such matters.

## 5.6 RESEARCH AND DATA COLLECTION

### 5.6.1 Establish a National Registry of Access Cases

To inform policy and judicial reform Zambia should create a registry of cases involving non-marital children and access disputes between their parents. This registry should;

- Track outcomes, enforcement rates and compliance of the matters of the cases that are brought to the courts.
- Support evidence based policy making that will help the fathers bring evidence to courts to show why they should have access rights to the child and to show when there has been parental alienation from the mother. Which will then identify patterns of discrimination or procedural delays.

### 5.6.2 Fund Academic and Legal Research.

Universities and research institutions should

- Be supported to conduct longitudinal studies on the impact of parental access to non-marital children,
- Evaluate the effectiveness of legal reforms when it comes to such cases and how well they are handled and also Publish findings of learned scholars to help inform public debate and legislative action.

**5.7 Strengthen collaboration between Government and NGOs:** The Zambian Government using the Ministry of justice and the Ministry of Community Development, should come together with NGOs working on children's right such as Save the Children or Zambian Civic Education Association to help offer legal aid , counselling and parental education workshops which will help bridge resources and awareness gaps especially in rural communities.

## **CONCLUSION**

This dissertation has demonstrated that Zambia's legal framework inadequately protects the access rights of non-marital children to their fathers. Despite constitutional guarantees and international obligations, discriminatory laws practices persist. Comparative analysis with South Africa and Kenya reveals that legal recognition, judicial activism and institutional support are essential for reform.

To uphold the best interests of the child and promote family unity, Zambia must;

- Amend outdated and discriminatory legislation under the family law sector when it comes to custody and access rights of non-marital children.
- Train judicial officers and traditional leaders to use the law and not be biased in decision making of cases of non-marital children.
- Domesticate the international treaties that it is a member to and align with regional standards so it can adopt some ways of dealing with matters of non-marital children.

These reforms are not merely legal necessities but moral imperatives because at the end of the day no matter the circumstances every child deserves the right to know, love, be loved and cared for by both parents regardless of their parents marital status'

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 8 9 11 DECLARATION I HOPE KAMANGU, do hereby declare that this dissertation titled  
 1 2 3 4 5 6 "RIGHTS OF NON-MARITAL CHILDREN TO ACCESS OF THEIR  
 FATHERS WITH LESSONS FROM SOUTH AFRICA AND KENYA" 1 2 3 4 5 6 7 8 9 11 which is  
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 2 8 Signature: Date: 7th November 2025. 2 3 5 SUPERVISOR'S RECOMMENDATION  
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 .... MS. MWAKA CHIZINGA DEDICATION I dedicate this dissertation to  
 God, whose grace and guidance has carried me through each and  
 every step of this journey. 1 3 To Mother, thank you for your  
 unwavering love, pray  
 it is  
 KNOWLEDGE First and foremost, I give  
 all t  
 length a  
 be thankful for his grace which has been my anchor in times of  
 uncertainty and difficulty. 1 My supervisor, Ms. Mwaka Chizinga has my  
 sincere gratitude for her patience and invaluable advice throughout





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RESEARCH CLEARANCE FORM

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SUPERVISOR: Ms. MUKA CHIZAMA TOPIC: Rights of non-Marital children to access of their fathers with lessons from South Africa and Kenya.

| Stage                    | Supervisor's Comments | Supervisor's Signature & Date | Student's Signature & Date      |
|--------------------------|-----------------------|-------------------------------|---------------------------------|
| Research Proposal        | Approved              | <i>Ms. Muka Chizama</i>       | 30/07/2025<br><i>Kamangu H.</i> |
| Chapter 1 – Introduction | //                    | <i>Ms. Muka Chizama</i>       | 07/08/2025<br><i>Kamangu H.</i> |
| Chapter 2 –              | //                    | <i>Ms. Muka Chizama</i>       | 15/08/2025<br><i>Kamangu H.</i> |
| Chapter 3 –              | //                    | <i>Ms. Muka Chizama</i>       | 5/09/2025<br><i>Kamangu H.</i>  |
| Chapter 4 –              | //                    | <i>Ms. Muka Chizama</i>       | 13/10/2025<br><i>Kamangu H.</i> |

|                                                                   |          |         |                        |
|-------------------------------------------------------------------|----------|---------|------------------------|
| Chapter 5 –<br>Conclusions &<br>Recommendations                   | Approved | Revised | 31/10/2025<br>Hammings |
| Abstract, Table of<br>Contents,<br>Bibliography and<br>Appendices | 11       | Revised | 02/10/2025<br>Hammings |
| First Draft                                                       | 11       | Revised | 02/10/2025<br>Hammings |
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