

ZAMBIA

CAT A/57/44 (2002)

59. The Committee considered the initial report of Zambia (CAT/C/47/Add.2) at its 494th and 497th meetings, held on 19 and 20 November 2001 (CAT/C/SR.494 and 497) and adopted the following conclusions and recommendations.

A. Introduction

60. The Committee welcomes the report of Zambia and expresses appreciation for its frank and thorough approach. The Committee also welcomes the candid and comprehensive responses, of the high-level delegation to the questions raised during the dialogue.

B. Positive aspects

61. The Committee notes with satisfaction the following elements:

- (a) The State party's withdrawal of its reservation made with respect to article 20 of the Convention;
- (b) The State party's commitment to:
 - (i) Introduce a crime of torture in accordance with article 4 of the Convention;
 - (ii) Proceed urgently with appropriate legislation and other measures to ensure the incorporation of the Convention into domestic law;
 - (iii) Ensure the exclusion of confessions obtained by torture and to look into the issue of derivative evidence;
 - (iv) Make a declaration with respect to articles 21 and 22 of the Convention; and
 - (v) Remove the function of prosecution from the police to the Director of Public Prosecutions (DPP);
- (c) The enactment of the Zambia Police (Amendment) Act (No. 14 of 1999) which provides measures to protect and monitor persons in police custody;
- (d) The implementation of a Juvenile Justice Administration Transformation Scheme, which aims to improve the handling of juveniles within the criminal justice system;
- (e) The legal prohibition of corporal punishment; and
- (f) The creation of the Human Rights Commission.

C. Factors and difficulties impeding the application of the Convention

62. The Committee recognizes the difficulties that the State party has experienced in the political transition towards a democratic system of governance. It is similarly aware of the significant financial and technical constraints that the State party faces.

D. Subjects of concern

63. The Committee expresses concern about the continued allegations of widespread use of torture together with the apparent impunity enjoyed by its perpetrators.

64. The Committee notes with concern that the State party has neither incorporated the Convention into its legislation nor introduced corresponding provisions in respect of several articles, in particular:

- (a) The definition of torture (art. 1);
- (b) The criminalization of torture (art. 4);
- (c) The prohibition of cruel punishment in the penal system (art. 16);
- (d) Recognition of torture as an extraditable offence (art. 8);
- (e) Systematic review of interrogation rules (art. 11); and
- (f) Jurisdiction over acts of torture, including those committed abroad (art. 5).

65. Concern is also expressed regarding:

- (a) The delay in investigating allegations of torture and in bringing suspects to timely trial;
- (b) Poor prison conditions that affect the health of both inmates and wardens, in particular the lack of health care staff and medicines as well as serious overcrowding;
- (c) The incidence of violence against women in society, which is illustrated by reported incidents of violence in prisons and domestic violence.

E. Recommendations

66. The Committee recommends that the State party:

- (a) Incorporate the Convention into its legal system;
- (b) Adopt a definition of torture which is fully in keeping with article 1 of the Convention and

provides for appropriate penalties;

- (c) Take appropriate measures to ensure jurisdiction over crimes of torture, wherever they may occur;
- (d) Undertake legal and other measures to address impunity and ensure that acts of torture are prosecuted to the full extent of the law and that complainants have access to legal advice as necessary;
- (e) Undertake legal and other measures to ensure the systematic review of interrogation rules, instructions, methods and practices;
- (f) Strengthen training and educational programmes for law enforcement personnel on the prohibition of torture;
- (g) Establish rehabilitation centres for victims of torture;
- (h) Establish programmes to prevent and combat violence against women, including domestic violence; and
- (i) Ensure the early and effective operation of the Police Public Complaints Authority.

67. While welcoming the Prisons (Amendment) Act which provides for the establishment of open air prisons, the Committee urges the State party to enhance initiatives to reduce overcrowding, increase the use of non-custodial sentences and generally improve detention facilities, especially because of the adverse effects on the health of inmates and prison staff.