

ZAMBIA

CERD 30th No. 18 (A/10018) (1975)

131. The information contained in the initial report of Zambia, and the supplementary information concerning the implementation of article 4 submitted in response to decision 3 (VIII) of the Committee, showed substantial compliance with articles 3, 5 and 6 of the Convention; members of the Committee noted, however, that information was lacking on the implementation of articles 4 and 7 of the Convention as well as on administrative and other measures giving effect to the provisions of the Convention. It was also observed that the report was not organized on the basis of the guidelines laid down by the Committee at its first session, and that the information envisaged in the Committee's general recommendations III (on relations with racist régimes) and IV (on the composition of the population) was not furnished. Members of the Committee expressed the hope that the full texts of the articles of the Constitution and the legislative provisions mentioned in the report, together with the texts of other relevant articles and provisions, would be supplied in the next report.

132. The representative of Zambia assured the Committee that the comments and questions of its members would be duly conveyed to his Government, and would be taken into account in the next report, which would also include the texts of the relevant provisions of the 1964 and 1973 Constitutions.

CERD (A/38/18) (1983)

408. The second, third, fourth, fifth and sixth periodic reports of Zambia, covering the period of 1975 to 1983, submitted in one document (CERD/C/106/Add.1 and Add.7), were considered by the Committee together with the introductory statement made by the representative of the reporting State, who highlighted some points of the report and provided the Committee with additional information concerning measures prohibiting racial discrimination in the field of civil, political, economic, social and cultural rights as well as other measures relevant to the implementation of the provisions of the Convention. Furthermore, he stated that his country participated actively in the struggle to eradicate apartheid and racial discrimination in South Africa and Namibia.

409. Members of the Committee expressed appreciation at the report of Zambia, which reflected the Government's effort to re-establish and enhance a constructive dialogue between the reporting State and the Committee at both national and international levels, as well as the desire of the Government of Zambia to fulfil its basic obligations under the Convention, especially in the light of difficulties faced by that country since its independence. However, the hope was expressed that the next periodic report of Zambia would include information in response to the comments made and questions raised by the members of the Committee and that it would be prepared in accordance with the revised guidelines laid down by the Committee. Some members requested that the texts of both the 1964 and 1973 Constitutions of Zambia be made available to the Committee with the next periodic report, together with information on the present demographic composition of the country and how the rights of minorities were guaranteed by the new Constitution.

410. In connection with the implementation of article 2 of the Convention, the Committee requested more detailed information concerning the different racial groups who lived in the country, in particular, on any special efforts taken to preserve the different cultures and languages, as well as on the elimination of inequalities between Asians and Africans and the various African ethnic groups. Additional information was also requested on the situation of the many refugees from southern Africa seeking asylum in Zambia. Furthermore, some members noted that it was not clear from the report whether all differences in the treatment of citizens and non-citizens and the cases relating to personal law, including adoption, marriage and burial, were in conformity with the provisions of the Convention. In that connection, they expressed the wish that those questions be clarified in the next periodic report of Zambia.

411. With reference to article 3 of the Convention, satisfaction was expressed with the attitude of the Government of Zambia, as a front-line State, towards the racist régime of South Africa. Members emphasized the importance of Zambia's assistance to national liberation movements and its constant opposition to racism and apartheid. Further details were requested on the actual experiences and philosophy behind the struggle against racism on its borders.

412. As far as article 4 of the Convention was concerned, it was felt that the Zambian Penal Code contained provisions involving partial implementation of that article, but foreigners were not mentioned among the groups that might be the victims of discriminatory treatment. It was not clear either whether section 46 of the Penal Code, which mentioned tribes, related to article 4 of the Convention and it was asked whether they were to be regarded as ethnic groups or simply as social

groups. More information was requested on the penalties applicable under section 70 of the Penal Code and on how the provisions of other sections were applied to give effect to article 4 (b) of the Convention.

413. With reference to information relating to the implementation of article 5 of the Convention, some members of the Committee noted with interest the measures adopted by the Government of Zambia to put an end to the vestiges of privilege in schools and hospitals.

414. With respect to article 6 of the Convention, more information was requested regarding legal provisions giving effect to that article and redress available to victims of racial discrimination.

415. In connection with article 7 of the Convention, further details were requested on measures designed to expand knowledge of values of other countries or other groups within Zambia. It was also asked what the Government had done, in the field of the education of youth, about the teaching of human rights in general and the purposes and principles of the Convention in particular.

416. In reply to some questions raised by members of the Committee, the representative of Zambia stated, in particular, that since the indigenous population of Zambia could be broken down into 73 tribes, it was not possible to supply the Committee with accurate statistical data, and that although a number of local languages were taught in schools and used in the mass media, English was accepted as the official language. Furthermore, although there were no formal educational centres catering for minorities, there was no law prohibiting the preservation of the cultural and religious heritage of minority groups. With regard to the texts of the 1964 and 1973 Constitutions of Zambia, he assured the Committee that appropriate action would be taken by his Government upon submission of Zambia's next report.

417. With reference to the question of refugees, he said that prior to 1980, Zambia had been sheltering many thousands of refugees from other countries, but between 1965 and 1980 South African troops had made a great number of military incursions into Zambia on the pretext of attacking terrorists, whereas they had actually been bombing refugee camps and destroying Zambia's economic infrastructure.

418. With regard to the implementation of article 5 of the Convention, the representative said that Zambians and non-Zambians had equal civil, economic and cultural rights and that all Zambian nationals had an equal opportunity to serve their country in a profession or vocation of their choice in both the military and civilian sectors. He also explained that inter-tribal and interracial marriages were permitted by the law, and that there was a certain number of inter-marriages among all races; however, polygamy was not encouraged.

419. In reply to questions raised in connection with article 7 of the Convention, the representative said that school children in Zambia were taught about the purposes and principles of the Charter of the United Nations and the Convention with a view to combating prejudices which lead to racial discrimination.

420. He assured the Committee that the comments made by the members would be conveyed to the competent authorities in his country and that future reports submitted by his Government would be

more comprehensive.

CERD A/48/18 (1993)

236. The seventh, eighth, ninth, tenth and eleventh periodic reports of Zambia, submitted in one document (CERD/C/239/Add.2), were considered by the Committee at its 988th meeting, held on 3 August 1993 (see CERD/C/SR.988).

237. The reports were introduced by the representative of the State party, who stated that they had been prepared with due regard for the questions raised during the consideration of the sixth periodic report in 1985. He also drew the Committee's attention to the core document (HRI/CORE/1/Add.22) submitted by his Government, which contained general information on the country.

238. He said that article 3 of the Constitution was based on the Charter of the United Nations and covered the main aspects of the Convention. The Convention was not directly applicable in Zambia and its provisions had to be incorporated in national legislation to enable them to be invoked before the courts.

239. Being bordered by eight countries (Angola, Botswana, Malawi, Mozambique, Namibia, the United Republic of Tanzania, Zaire and Zimbabwe), Zambia received a large number of refugees from those countries, and from South Africa. Zambia provided many services for those refugees but lacked the resources needed to ensure their education. The country was also experiencing numerous problems connected with migratory flows and the presence in Zambia of a very large number of illegal migrants. All those problems had an adverse effect of the effective implementation of certain provisions of the Convention.

240. Members of the Committee welcomed the resumption of the dialogue between the Committee and Zambia, which had been interrupted for 10 years. They pointed out that Zambia had been governed by a single party during the major part of its existence as a sovereign State and had experienced an uninterrupted state of emergency from 1964 to 1991, which had inevitably had negative effects on the protection of fundamental human rights. In the absence of any reports for more than 10 years, the Committee had been unable to assess the extent to which that situation had affected the struggle against racial discrimination in the country. They noted with satisfaction that the new Constitution of 24 August 1991 contained numerous provisions for the protection of fundamental human rights, but at the same time observed that the re-establishment of the state of emergency on 4 March 1993 could have adverse repercussions on human rights in Zambia. Members of the Committee also said that the lack of information about the ethnic composition of Zambian society, along with many gaps in the report, which had not been prepared in accordance with the Committee's general guidelines for the preparation of reports, made the Committee's task more difficult.

241. Regarding article 1 of the Convention, members of the Committee requested clarifications concerning complaints of ill-treatment of members of the Asian community and the alleged decrease in the size of the non-African portion of the Zambian population over the last 30 years. They also requested further information on the procedures for incorporating the Convention in Zambian legislation and on the effects that the re-establishment of the state of emergency might have on the

implementation of the Convention.

242. With regard to article 4 of the Convention, members of the Committee, having noted that section 70 (1) of the Penal Code met the requirements set out in article 4, paragraph (a), of the Convention, requested additional information on the implementation of paragraphs (b) and (c) of that article.

243. Concerning article 5 of the Convention, members requested further information about enjoyment of the civil, political, economic, social and cultural rights set out in article 5 of the Convention, having regard to the country's various ethnic groups.

244. With reference to article 6 of the Convention, members wished the Government to provide some examples of recommendations made by the Commission for Investigations (Ombudsman), which was responsible for dealing with complaints concerning racial discrimination; evidence of the effectiveness of the Presidential Tribunal with regard to administrative matters related to tribalism; and information on the case law of the Industrial Relations Court and on the damages awarded to victims. They pointed out that article 23 of the Constitution was not in line with the provisions of article 6 of the Convention and asked for clarification.

245. With regard to article 7 of the Convention, members wished to know what measures had been taken by the Government of Zambia to improve the training of the police so that they would show greater respect for human rights; whether the Government was planning to have the Convention translated into the main languages spoken in the country; and whether the Government had requested assistance from the Centre for Human Rights in the preparation of reports, the translation of the Convention and the organization of seminars for members of the police, security services and armed forces on the effective protection of human rights.

246. Having noted that Zambia had ratified the Optional Protocol to the International Covenant on Civil and Political Rights, members asked whether the Government was planning to make the declaration provided for in article 14 of the Convention in order to recognize the competence of the Committee to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation by the State of any of the rights set forth in the Convention.

247. The representative of the State party, replying to the questions asked and comments made by members of the Committee, explained that the shortness of the report was due to the fact that it had been prepared for the purpose of initiating a dialogue rather than to cover the period of 10 years that had elapsed since the previous report had been submitted, in 1983. All the comments and questions had been duly noted and that the next report would be prepared in accordance with the Committee's guidelines. The Government of Zambia wished to continue to receive technical assistance from the Centre for Human Rights.

248. The purpose of the state of emergency decreed in March 1993 was by no means to apply discriminatory measures or to arrest political opponents. No political party had been prohibited and freedom of expression had been maintained. With regard to the expulsion of foreigners, he explained that the expulsion measures did not concern refugees but smugglers who had entered the

country illegally in order to steal the precious stones extracted there.

249. The Asian community was well integrated into the population and there were no conflicts between the Zambian population and the population of Asian origin. The lack of conflict accounted for the lack of legislation in that regard.

Concluding observations

250. At its 1007th meeting, held on 17 August 1993, the Committee adopted the following concluding observations.

Introduction

251. The Committee welcomed the submission of the reports as evidence of the readiness of the Zambian Government to resume, after a delay of 10 years, a dialogue with the Committee. The Committee noted with regret that the report under consideration did not fully comply with the Committee's revised general guidelines for the preparation of reports and was inadequate. However, the oral dialogue allowed the Committee to clarify certain of its concerns and to re-establish cooperation with the Government of Zambia with a view to the effective implementation of the provisions of the Convention.

Positive aspects

252. The Committee noted with satisfaction the peaceful transition in Zambia in November 1991 from a one-party State to a multiparty democracy. It also noted that the new Constitution contained extensive provisions for the enjoyment of fundamental rights and their protection under the law. The Committee commended Zambia for the support it had given to the liberation struggle in southern Africa and the dismantling of apartheid. It appreciated the readiness of the Government of Zambia to harbour great numbers of refugees from various African countries.

Factors and difficulties impeding the application of the Convention

253. The Committee noted that for most of its national existence, Zambia had been governed as a one-party State and from 1964 to 1991 had been continuously under a state of emergency with some negative effects on the overall human rights situation in the country. The reinstatement, on 4 March 1993, of a state of emergency may also have a negative impact on the effective application of the Convention. The Committee noted that the lack of adequate financial resources did not allow the Government to translate the Convention into the various languages spoken in the country or to carry out the necessary educational and training programmes in the field of human rights, especially for law enforcement officials.

Principal subjects of concern

254. The Committee questioned the place of the Convention as a whole in the legal framework of Zambia and expressed concern at the lack of incorporation of the principal provisions of the Convention in municipal law, especially those contained in article 4, paragraphs (b) and (c). The

Committee was also concerned about the recent declaration of a state of emergency; the treatment accorded to certain categories of refugees; and the reported cases of brutality with discriminatory overtones on the part of the police officers. In addition, the Committee was of the view that Zambian legislation had not effectively provided the remedy and compensation that should be available to an injured person in terms of article 6 of the Convention. Further, the Committee found that article 23.4 (c) of the 1991 Constitution was not in consonance with the requirements of article 1 of the Convention. It also expressed concern at reported discriminatory acts on the part of government officials against members of the Asian community in Zambia.

Suggestions and recommendations

255. The Committee recommended that appropriate consideration should be given by the Government of Zambia to the effective incorporation of the provisions of the Convention in municipal law, particularly those of article 4 (b) and (c); that the text of the Convention should be translated and disseminated, at least among the principal linguistic groups, and that for that purpose the assistance of the Centre for Human Rights could be requested. Additionally, the Committee considered that, in the light of the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights, ^{5/} due consideration should be given to acceptance of the Committee's competence under article 14 of the Convention

256. The Committee further recommended that, as stated in its general recommendation XIII (42), law enforcement officials should receive intensive training to ensure that in the performance of their duties they respected as well as protected human dignity and maintained and upheld the human rights of all persons without distinction as to race, colour, descent or national or ethnic origin. For that purpose, as well as for the preparation of the next report, the Committee recommended that the Government of Zambia should request the assistance of the Centre for Human Rights.

^{5/} Report of the World Conference on Human Rights, Vienna, 14-25 June 1993 (A/CONF.157/24 (Part I), chap. III).