



**Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

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COMMITTEE AGAINST TORTURE

Fortieth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)\* OF THE 827th MEETING

Held at the Palais Wilson, Geneva,  
on Friday, 9 May 2008, at 3 p.m.

Chairperson: Mr. GROSSMAN

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\* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.827/Add.1.

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The meeting was called to order at 3.20 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER  
ARTICLE 19 OF THE CONVENTION (continued)

Second periodic report of Zambia (continued) (CAT/C/ZMB/2; CAT/C/ZMB/Q/2 and Add.1; HRI/CORE/1/Add.22/Rev.2)

1. At the invitation of the Chairperson, the members of the delegation of Zambia resumed places at the Committee table.
2. Ms. IMBWAE (Zambia) said that her delegation would advise the Cabinet to reconsider the issue of incorporating the definition of torture contained in the Convention in domestic legislation. The Government would implement an awareness-raising campaign to ensure that all stakeholders were educated on the issues relevant to torture.
3. Courts conducted hearings into the case of defendants who alleged that their confession had been obtained through torture. Where a ruling was in the defendants' favour, any evidence obtained through torture was disregarded. Best practices on obtaining confessions were based on the Judges' Rules, which took into account the provisions of the Convention. Judges and magistrates did not accept confessions obtained in contravention of the Judges' Rules, and courts had to satisfy themselves that those rules had not been breached in obtaining confessions.
4. In addition to law enforcement officers, members of the public could effect an arrest where it was evident that a crime was being committed. The Human Rights Commission had a mandate to visit prisoners who could report acts of torture to the visiting justices with whom they usually spoke in the absence of prison officers. Other deterrent measures included visits by magistrates, the Director of Public Prosecutions and officers from the Legal Aid Board. In addition, the Police Public Complaints Authority received complaints about police and prison officers and made recommendations on disciplinary measures to be taken, including dismissal.
5. While her Government regretted that an accused person had been detained for four years without trial, that was an exceptional case. The law provided that accused persons were brought to court within 48 hours. Since arrest warrants could not be renewed, the police had either to release detainees or to take them to court after that period. All arrests were registered, with the date of arrest and the nature of the offence. A magistrate checked the register every fortnight, thus ensuring that the necessary action was taken in the case of a prolonged detention. The register was open to the public.
6. The Access to Justice Programme aimed to facilitate coordination between all government institutions dealing with criminal justice, and to facilitate the decentralization of the office of the Director of Public Prosecutions and the Legal Aid Board. Since no male prison warders were employed in women's prisons, the issue of sexual harassment did not arise. While domestic legislation currently provided that prisoners could be given a reduced diet as a form of punishment, the Government was in the process of amending the relevant law. She would ensure that the Committee's concerns on that issue were raised during that process.

7. The age of criminal responsibility was one of the issues that would be reviewed during the examination of all the legislation related to children. During the constitutional review process, Zambians had been in favour of maintaining the death penalty. That issue was currently under consideration by the National Constitutional Conference, a body representing the whole population.

8. Members of the judiciary were trained in gender issues, including gender-based violence. Several one-stop centres for victims of gender-based violence were being established, and would provide legal services, counselling and health care. Awareness of that issue was also being raised through International Women's Day, the 16 Days of Activism Against Gender Violence, and action taken in preparation for the periodic report. All prisons had health-care facilities that were staffed by clinical officers and nurses. Complicated cases were referred to hospitals.

9. The Attorney General issued all extradition warrants, while the Ministry of Home Affairs was responsible for issuing deportation orders. That Ministry worked with the United Nations High Commissioner for Refugees to decide on asylum applications. Applicants found to have genuine claims were granted refugee status. Currently, refugees with resources and expertise were given self-employment permits to run businesses, while those with special skills were given work permits for employment in various industries. That situation was under review. Non-nationals received the same treatment as nationals in terms of infringements of aspects related to torture specifically provided for in domestic legislation. Same-sex relationships were an offence under the Penal Code.

10. The Government planned to ratify the Optional Protocol to the Convention against Torture and the Genocide Convention. Zambia was already a party to the Rome Statute of the International Criminal Court.

11. The prerogative of mercy relieved the problem of prison overcrowding. A parole board included all the institutions that dealt with criminal justice, thus ensuring coordination on the treatment of prisoners. Several prison facilities had been improved. HIV-positive inmates and those suffering from AIDS were provided with free antiretroviral drugs and food supplements. Female inmates were taught life skills such as weaving, tailoring, knitting, baking and sewing. Article 28 of the Constitution provided for redress to persons whose rights had been infringed under the Bill of Rights. However, assessment of fair and just compensation was determined by the court.

12. Juveniles that did not have legal representation were provided with other safeguards, such as court hearings in camera with a guardian, parent or juvenile inspector from the Department of Social Welfare. Issues related to juveniles, including juvenile justice, were being reviewed under the Fifth National Development Plan.

13. Any inadequacies that arose from articles 23 and 25 of the Constitution would be addressed under the current constitutional review process, which would take account of the provisions of human rights treaties to which Zambia was a party. A human rights committee chaired by the director of the Human Rights Commission had been set up to that end.

14. The Government had established a four-year strategic plan for street children, the main aims of which were to reduce the number of street children by 50 per cent, to reintegrate those sleeping on the street into society, to improve reintegration programmes and to strengthen existing policy to protect children in especially difficult circumstances, including street children.

15. There was no legislation that provided for corporal punishment. Legislation was currently being drafted to prohibit gender-based violence. The Penal Code had been amended to introduce stricter penalties for sexual offences. A programme on sexual and gender-based violence was raising awareness of that problem among the public, parents, traditional healers, traditional leaders and children. Similar measures were being taken to raise awareness of problems related to HIV and AIDS. A national action plan aimed to ensure that a coordinated approach was taken to measures aimed at preventing and eliminating all forms of gender-based violence.

16. Measures were planned to ensure that human rights treaties that were not already incorporated in domestic law would become part of Zambian legislation. The Human Rights Commission was funded directly from the Treasury, and was autonomous in its operations. There was no statute of limitation applying to offences that constituted acts of torture. Extradition arrangements were not limited to Commonwealth countries. Any State could enter into a bilateral agreement with her Government. The Central Statistics Office was in the process of developing a central database.

17. Mr. MARIÑO MENÉNDEZ (Country Rapporteur) suggested that the guidelines stipulating standards for the interrogation of suspects and the treatment of persons in custody should be raised to the level of statutes. He requested clarification on the role of the office of the Director of Public Prosecutions in reviewing complaints of torture or ill-treatment. In particular, it would be useful to learn whether that office was fully independent and whether it could launch its own investigations.

18. He asked how long a detainee could be questioned before being brought before a judge, and how long pretrial detention could last. It would be useful to know whether the State party planned to introduce the question of violence against female detainees in its legislation. The State party should expedite its decision to abolish the death penalty, particularly in the light of the many years that some detainees had spent on death row. He requested additional information on the right of pretrial detainees to legal counsel, medical care and family visits.

19. Given that customary law appeared to prevail over national legislation in some regions, the delegation should indicate what police protection was afforded to victims of domestic violence in those localities. He asked whether foreigners could appeal against expulsion orders before higher courts. The lack of clarity on the issue of the State party's jurisdiction over foreign citizens who had committed an act of torture and were on Zambian territory stemmed from the lack of a definition of torture in domestic legislation. He therefore urged the State party to incorporate the definition of torture enshrined in article 1 of the Convention in its domestic legislation.

20. Mr. KOVALEV (Alternate Country Rapporteur) asked whether the State party's amendment to the legislation providing that prison inmates could be allocated reduced food rations would ensure that people who were HIV-positive or who had tuberculosis received sufficient food. The delegation should indicate what the age of criminal responsibility would be once the relevant legislation had been amended. The Committee would welcome additional

information on the instructions used for training security and medical staff on issues relating to torture. He asked how many claims had been lodged for compensation by victims of acts of torture and what the results had been in each case.

21. Ms. BELMIR requested additional information on the minimum guarantees afforded to women in prison. She also urged the State party to ensure that police officers who used excessive force were duly punished.

22. Ms. GAER, noting with satisfaction that the Zambian Government was committed to cooperating with the Office of the High Commissioner for Human Rights, including its standing invitation to the special procedures mandate-holders, said that no special rapporteur had visited the country for the last 10 years. Such visits helped Governments and non-governmental organizations to engage in dialogue. She enquired whether the delegation was in a position to invite the Special Rapporteur on torture and the Special Rapporteur on violence against women to visit the country. Regarding budget shortfalls, she wondered whether the national human rights mechanism sought independent financing of its projects and, if so, whether it faced any undue constraints.

23. The CHAIRPERSON stressed the importance of incorporating the definition of torture contained in article 1 of the Convention in the State party's domestic law. Noting that confessions obtained through torture were not admissible in court, he enquired whether there had been cases in which torture had nevertheless been used for that purpose. More information was needed on whether prison visits were announced in advance, whether they were documented and what lessons could be learned from them. It was not clear whether persons detained for an excessive period without trial were given compensation. He noted with concern that the reduction in the diet of prisoners was used as a form of punishment, as even without such a reduction prison rations as such generally met only the minimum nutritional requirements. Further clarification was needed on the principles governing the issuance of residence permits. In light of the fact that same-sex relations constituted an offence under the Penal Code, information was needed on any penalties imposed for such private relations between consenting adults. Clarification was needed on the differences between work permits granted to employed persons and those issued to the self-employed. He enquired whether a non-Zambian national could be tried or extradited in Zambia for acts of torture committed abroad even if the State party did not have an extradition treaty with the State of the national in question.

24. Ms. SVEAASS, noting with satisfaction the Government's strategic plan on street children, said that it was important to provide proper training to the police on how to deal with young persons. In addition, more women police officers should be trained. She enquired whether there were alternative penalties for women with children who had been sentenced to prison. Information was needed on any action taken with respect to the complaints received by the Police Public Complaints Authority in connection with acts of torture or ill-treatment. Details were also needed of any measures to provide rehabilitation and medical care for the victims of such treatment. Lastly, she asked whether there was a hotline for victims of domestic violence.

25. Ms. IMBWAE (Zambia) said that she would bring the need for incorporating a definition of torture into national law to the attention of the relevant authorities. She stressed that confessions obtained by means of torture were not admissible in court. The role of the Director of Public Prosecutions was to enhance coordination and cooperation among the government

institutions dealing with justice. Furthermore, the Director did not interfere in any way with the role of the judiciary. The maximum period of detention before a case was brought before the court was 48 hours. In practice, there had been some cases of longer periods of detention. Nevertheless, the decentralization process launched by her Government, by which legal aid and the services of the Director were currently extended to all nine provinces, was helping to expedite proceedings, particularly in rural areas.

26. Concerning violence against women in prisons, there were no male wardens in women's prisons and no open-air prisons for women. Violence against women detainees most often occurred at police stations, especially in rural areas. When police officers were found to have committed acts of sexual violence, the appropriate law was applied to them.

27. The law governing the death penalty reflected the cultural aspirations and economic level of the country. In addition, the people of Zambia did not wish to legalize same-sex relations, which remained a criminal offence. Under the Constitution, human rights issues were decided by the citizens of the country. Therefore, any changes in the law on matters such as the death penalty or same-sex relations needed to be put to a national referendum. Nevertheless, the National Constitutional Conference was currently considering the issues. Prisoners living with HIV/AIDS did not face any legal discrimination and had access to medical facilities. The Government was trying to raise awareness among local justices about the issue of violence against women.

28. The Ministry of Home Affairs had the authority to expel, return or extradite persons. Nevertheless, the courts had the authority to hear appeals from any person thus affected, as in the case of Attorney General v. Roy Clarke (CAT/C/ZMB/Q/2/Add.1, para. 6), in which the decision to expel was overturned by the Supreme Court.

29. Regarding reduced food rations in prison, the relevant authorities were aware of the need to provide prisoners with the necessary nutritional requirements. Provisions had been made under the law to train law enforcement personnel in issues of torture. However, prison medical officers had not received such training. Concerning the monitoring of prison conditions, surprise visits and inspections were indeed carried out. Victims of torture were entitled to seek compensation before the courts. The National Constitutional Conference was dealing with issues of police abuse. No officer was above the law. The Government was making every effort to combat such abuse within its resources. In the light of its level of economic development, the State could not afford a hotline for victims. Furthermore, such facilities would be impractical. The law specifically prohibited corporal punishment in schools. It would be difficult, however, to monitor such punishment in the home. While it was not prohibited, the law discouraged it at home.

30. Mr. LYEMPE (Zambia) said that his Government was working with the Office of the High Commissioner for Refugees to address the problem of granting residence permits to refugees. There was no major difference between a self-employment permit and other types of work permit. Refugees who could demonstrate that they had the necessary financial resources could apply for a self-employment permit. Those with needed skills and knowledge such as doctors and engineers were granted work permits. The money they earned could thus go towards supporting themselves and their families.

31. Mr. KANKASA (Zambia), referring to the two shootings mentioned in paragraph 26 of the list of issues (CAT/C/ZMB/Q/2), said that one officer involved in the shooting at the Lusaka Ngombe compound in September 2006 had been arrested and charged with two counts of murder and one count of attempted murder. The November 2006 case had involved a mob of young persons who had advanced toward the officers in question in an attempt to free their colleagues. Some young persons had been hit by fragments of warning shots which had been fired at the ground. Disciplinary measures had been taken against the officers for failing to take precautionary measures. In addition, national plans were under way to establish rehabilitation centres for victims of torture and other human rights violations.

32. Mr. ZULU (Zambia) said that the strategic plan on street children was based on the information which the Government had continued to gather, including, most recently, a survey on the situation of street children conducted in 2006. The strategic plan sought to reduce the number of children living in the streets, currently totalling some 13,000, by 50 per cent within four years. In addition, the national development plan included for the first time a chapter on street children and young persons as well as on social protection. The chapters were aimed at increasing resources for and attention to the problem of street children. The measures to address the problem included training for caregivers, infrastructure development, awareness-raising and skills training.

33. Ms. MWIINGA (Zambia) said that a hotline for gender-related violence was being established, and that victims of gender-related violence would be assisted under the economic empowerment fund.

34. Ms. IMBWAE (Zambia) said that the Government was conducting awareness-raising campaigns, especially in rural areas, to teach people - including community rulers - that HIV/AIDS could not be cured by witch doctors. She would send the Committee information on cases of confessions obtained under torture. There was a zero-tolerance policy with regard to police officers committing acts of torture.

35. The CHAIRPERSON expressed his appreciation for the State party's participation in the valuable process of interactive dialogue with the Committee, which he hoped would provide input into the efforts under way in the area of revision of legal instruments, training and awareness-raising.

36. The delegation of Zambia withdrew.

The public part of the meeting rose at 5.05 p.m.