



**Convention on the Elimination
of All Forms of Discrimination
against Women**

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**Committee on the Elimination of Discrimination
against Women**
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Summary record of the 980th meeting

Held at Headquarters, New York, on Wednesday, 13 July 2011, at 10 a.m.

Chair: Ms. Pimentel

Contents

Consideration of reports submitted by States parties under article 18 of the
Convention (*continued*)

Combined fifth and sixth periodic report of Zambia

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The meeting was called to order at 10.05 a.m.

Consideration of reports submitted by States parties under article 18 of the Convention *(continued)*

Combined fifth and sixth periodic report of Zambia (CEDAW/C/ZMB/5-6; CEDAW/C/ZMB/Q/5-6 and Add.1)

1. *At the invitation of the Chair, the members of the delegation of Zambia took places at the Committee table.*

2. **Ms. Sithole-Mwenda** (Zambia) said that her Government's periodic report (CEDAW/C/ZMB/5-6) was based on the contributions of both State and non-State stakeholders and had been validated by them. It represented an honest, open and accurate account of measures taken to implement the Convention.

3. Zambian women took pride in having become more actively involved in the pursuit of their rights and freedoms in all spheres of society. Her Government was strongly committed to advancing the rights of women and had instituted legislative, judicial and administrative measures to that end. Discrimination on the basis of sex had long been prohibited under the Constitution and the Industrial and Labour Relations Act. The Zambia Police (Amendment) Act No. 14 of 1999 had established the Police Public Complaints Authority, tasked with receiving and investigating complaints against the police and submitting findings, recommendations and direction to the relevant authorities. The provisions of the Zambia Development Agency Act of 2006 promoted gender equality in respect of economic resources. Thirty per cent of titled land had been set aside for women, and women had come to hold 50 per cent of decision-making positions at the High Court and Supreme Court levels. The country's customary laws were being restated to conform to current socio-economic and political values as reflected in its statutory laws. Awareness of women's rights issues was promoted through school curricula, human rights training for local court justices and easy licensing procedures for community radio stations that would expand civic awareness. A maternal mortality reduction campaign had been launched in 2010 to combat high maternal mortality. Three different welfare cash transfer schemes benefiting the elderly, the indigent and children had been implemented, and the Zambia Development Agency

had launched several programmes that would benefit women in the informal sector.

4. In addition to the above accomplishments, all described in the report, she drew attention to the Anti-Gender-Based Violence Act of 2011, the Anti-Human Trafficking Act of 2008 and the Education Act of 2011, which emphasized equal access to education and, inter alia, made it illegal to terminate a child's education for the purpose of marriage.

5. Zambia had achieved reasonable progress in the face of considerable challenges; namely competition with demanding basic needs for scarce resources, a huge number of illiterate women, and customary practices that placed women in a subordinate role. The State attached great importance to protecting and promoting women's rights, and she hoped that the delegation could engage in frank, honest and fruitful dialogue with the Committee.

Articles 1 and 2

6. **Ms. Schulz** noted that the Committee's 2002 concluding observations had been distributed in English only, despite the Committee's recommendation to distribute such documents in the local languages. She wished to know the Government's plans for 2011 in that regard. Also, Zambia had not complied fully with its reporting obligation, in the sense that its report stopped at 2006 on most subjects. While the responses (CEDAW/C/ZMB/Q/5-6/Add.1) to the list of issues and questions (CEDAW/C/ZMB/Q/5-6) and the oral introduction had filled in some of the gaps, the outdated nature of the report made it difficult for the Committee to fulfil its mandate of review and support.

7. She was interested to know what human resources the Gender and Development Division had at its disposal, as well as its budget for personnel and activities. She wondered if its operations were centralized in the capital or decentralized and, if the latter, how they were coordinated; and if the Division was separate from the new Office of the Minister of Gender and Women in Development and, if so, what their respective mandates were and how they interacted.

8. Turning to more substantive issues, she said that despite the Committee's 2002 recommendation, Zambia had not moved to repeal article 23, paragraph 4, of its Constitution, which allowed gender-based discrimination in the area of personal law and was thus in clear

violation of articles 1 and 2 of the Convention. If she understood the response to question 6 correctly, the new draft Constitution contained a similar provision, and the people of Zambia could reject it only by rejecting the new Constitution by referendum. In her opinion, the State should shoulder its responsibility and eliminate the discriminatory provision before the referendum. Zambia also still needed to eliminate customary laws that were not in harmony with the Convention.

9. **Ms. Šimonović** said that incorporating the Convention into domestic law was the first step towards eliminating discrimination against women. Thus far, the Government appeared to lack the will to do so. It was insufficient and contradictory to protect women's rights in article 9 of the Constitution and then take them away in article 23. Furthermore, Zambia had no general provision prohibiting discrimination against women in all fields of life, as required under the Convention. It must correct those deficiencies before putting the draft Constitution to the people, because nothing would happen at the level of the referendum. Also, Zambia had signed the Optional Protocol in 2008 but had not yet ratified it, and she would like to know where the ratification process stood.

10. **Ms. Ameline** said that Zambia's efforts to participate in international organizations and peace efforts and to incorporate the international conventions into domestic law were to be applauded. However, as her colleagues had pointed out, further work was needed to implement the Convention. She pointed in particular to the need to ensure the precedence of statutory law over customary law, which was often detrimental to women. She shared the Government's concern regarding certain customary practices that undermined its emerging legal edifice.

11. Action was needed in three areas. First, it was essential to seize the opportunity at hand to clarify the Constitution. Secondly, it was important to make further legislative changes and, in particular, to enact a personal status law to counter negative customary practices. Thirdly, the judicial system must be made more responsive to complaints of violence against women.

12. In building its constitutional and legal edifice, Zambia should invite the participation not only of civil society, as it clearly had done, but also of international organizations. Zambia was grappling with poverty and

many other challenges, and the international community had a duty to help it to meet the demand for democracy.

13. **Ms. Bareiro-Bobadillo** said that it was difficult to understand how a country that had prepared such a thorough, well-designed and well-written periodic report could have failed to implement the Committee's 2002 recommendations. Perhaps the problem lay in different understandings of what constituted discrimination against women. While the wording of article 23, paragraph 4, of the Constitution was at times confusing, it clearly allowed discriminatory provisions against women where they were most vulnerable: in matters of personal and customary law. Both sides needed to do a better job of discussing what they considered discrimination in order to achieve a mutual understanding, which was essential for further progress.

14. She too attached importance to the role of non-governmental organizations (NGOs), and she would be interested to know how the ministries worked with such organizations outside the report preparation process.

Articles 15 and 16

15. **Ms. Hayashi** said that she very much appreciated the openness of the periodic report, but she was somewhat disappointed by the formulaic responses to the list of issues. For example, when asked about measures taken to enforce the provisions of the Marriage Act and the Intestate Succession Act, the reply had been simply that those provisions were enforced by Zambian courts and no specifics had been given about programmes and policies.

16. She was pleased to note that the Intestate Succession Act prohibited the surviving wife's eviction from the conjugal home, as well as the denial of a woman's right to inheritance. She would like statistics on the number and outcome of any court cases tried under the Act, and would also like to know whether victims were entitled to monetary or other compensation.

17. She was surprised that the majority of women surveyed by the Government supported the payment of the bride price. It would be useful to have details on the survey, including whether it was conducted by women or men. If the survey results were indeed accurate, she would be interested in the delegation's

analysis of why so many women supported the bride price custom, and also why most women apparently favoured polygamy, a practice which breached the provisions of article 5 (a) of the Convention, and had serious emotional and financial consequences for women.

18. In connection with early marriage, the Committee had learned from alternative sources that only 14 per cent of children in Zambia had birth certificates. She would appreciate the delegation's comment on the figures and percentages of children whose births were not recorded, as well as on the link with unrecorded customary marriages. Statistics on the reported decline in early marriages would also be useful.

19. Welcoming the provision in the Education Act that made it illegal to terminate a child's education for the purpose of marriage, she asked when the Act would enter into force and, if it already had, how many cases had been tried and violators sentenced under that provision.

20. **Ms. Halperin-Kaddari** said that her country shared Zambia's problem of dual legal systems, although in the case of Israel, it was a matter of religious law versus statutory law. She was therefore well aware of the cultural issues and impediments. However, by ratifying the Convention with no reservations, Zambia had accepted the challenges of overcoming them.

21. She asked whether the Zambia Law Development Commission project to restate customary laws was intended to bring customary laws in line with Zambia's obligations under the Convention, or whether it was simply a theoretical analysis. She understood from the report and alternative sources that most women were married under both statutory and customary law. It should be possible to protect women married under both regimes by enacting a provision to give statutory law precedence in such cases, without waiting to harmonize the two systems. In that connection, she would be interested to know whether the women surveyed on the bride price were aware that its payment gave the husband absolute rights over the children and the reproductive rights of the wife.

22. On the issue of property rights, she noted with great interest the Chibwe case (report, para. 189), in which the Supreme Court had held that even women in customary marriages were entitled to an equal share of property after divorce. She would like to know if the

Supreme Court ruling was being applied, how women were made aware of that right and whether they received legal aid to realize it. She also wondered, for both customary and statutory law, if marital property included intangible assets, rather than just real property.

23. Regarding child custody, the report (para. 190) mentioned a case in which the Supreme Court had held that when a marriage was dissolved, the court should base custody on the child's best interests rather than the parents' rights. However, it went on to state that it was the responsibility of the individual to challenge inequitable customary laws. That position ran counter to both the Convention and the Committee's general recommendation No. 21. Responsibility for challenging unjust laws lay with the State.

24. Lastly, with respect to property grabbing and "sexual cleansing", Zambia had indicated that those problems were being addressed by sensitizing traditional leaders and asking them to sensitize their subjects. That was not enough. Those practices should be criminalized.

25. **Ms. Kawimbe** (Zambia) referring to the dissemination of the Committee's concluding observations and recommendations, replied that the Government had distributed them in English because most of the population was illiterate and could not read them, even in the local languages. In the future, the State would make greater use of the large number of community radio stations.

26. A number of international organizations had indeed been consulted in the preparation of the report. With respect to the period covered by the report, it had been prepared and submitted to the Committee in 2005. Because of advances in fulfilling the rights of women since then, updated information and statistics had been included in the responses to the list of issues.

27. **Ms. Kalamwina** (Zambia) said that the Gender in Development Division was technically headed by a male permanent secretary, who also held the position of cabinet minister in order to insure that gender issues were represented at the highest level. He was assisted by the Deputy Minister for Gender and Women in Development, so that the Division would have two people representing its issues in Parliament. There were two directors, a man and a woman. The other positions — six specialists and eight agenda analysts — were equally distributed between the sexes. The

Division was represented at the district level by gender focal points, who were senior planners charged with ensuring that all planning incorporated gender-related concerns. Their activities were funded from a dedicated fund. In general, the Division coordinated policies among ministries to insure that all government policies were gender-responsive. It also conducted dedicated-fund programmes to empower women economically at the grass roots.

28. The Office of the Minister of Gender and Women in Development and the Gender in Development Division were one and the same. In terms of budgetary support, the Division received generous funding from the State and its cooperating partners: on the order of \$4 million and \$3.8 million respectively.

29. **Ms. Sithole-Mwenda** (Zambia), referring to article 23 of the Constitution and the domestication of the Convention, said that by law only the people could amend the Constitution. Although it could not alter article 23, the Government had played its role by drafting a revised Constitution. While the referendum on the draft Constitution had been delayed by the census in 2010 and by general elections in 2011, it would be held, and the people of Zambia would decide. Article 23 prohibited discrimination on the basis of sex, which, in the opinion of her Government, provided adequate protection for women. Consultations were continuing on ratification of the Optional Protocol, but she could not say exactly when that would occur.

30. **Ms. Mutasa** (Zambia), addressing the question of whether women were being made aware of their rights, said that the Country's Human Rights Commission was working on the ground to inform them. It had joined forces with a number of human rights organizations from civil society in that effort. In addition, the Commission's Gender Equality Committee, comprising staff members and representatives of civil society organizations, provided assistance to civil groups active in the field of women's rights, mostly in the form of technical support, which was what was most often requested.

31. **Ms. Maimbo** (Zambia) said that the Zambia Law Development Commission was a statutory body under the Ministry of Justice. Commissioners were drawn from the Government and other public bodies. Its job was to determine what the people wanted to see in their laws, and it consulted with NGOs, private bodies and members of the public for that purpose.

32. Sexual cleansing had been criminalized in the Penal Code (Amendment) Act No. 15 of 2005. Property grabbing was penalized by deprivation of benefits in the estate under the Intestate Succession Act, which was under review to improve enforceability. Regarding the public's attitude towards the bride price and polygamy, the overwhelming majority of respondents to the 2003 survey had preferred to retain both rather than to abolish them. Those surveyed had been people likely to follow customary laws and who understood their implications. Many women saw the bride price not as a purchase price, but as a token of appreciation to the parents for their daughter's good upbringing. In general, when the Government began to enact a large number of laws, there was a feeling among many women in Zambia that it was impinging on Zambian customs and traditions.

33. As part of the harmonization of customary and statutory law, the project to restate customary marriage laws was intended to bring them into line with statutory law by giving women in customary marriages more rights under the customary regime. The Intestate Succession Act was also part of the harmonization process. It overrode customary intestate succession law. In fact, in the event of any conflict between statutory and customary law, statutory law prevailed. That had been the principle applied in the Chibwe case, where a woman's statutory entitlement to an equitable share of the property in divorce overrode the customary regime.

34. **Ms. Kalamwina** (Zambia), clarifying the methodology of the 2003 bride price survey, said that those surveyed by the Zambia Law Development Commission had been members of other government departments and NGOs and people likely to follow customary law. A later survey in the context of the State of Governance Report 2009 had polled 5,000 households and 18,000 respondents across all educational and income levels. More than 95 per cent had agreed with the principle of the bride price, and 88 per cent had reported having paid bride price. More than 84 per cent of respondents, including those with no income, had found it affordable and wished the practice to continue.

35. **Ms. Sithole-Mwenda** (Zambia) said that she had no statistics on the Education Act, which had come into force only on 18 April 2011. Women married under both customary and statutory law were already protected by the Local Courts Act, which gave

precedence to statutory law in the case of conflict between the two regimes.

36. **Ms. Kalamwina** (Zambia) noted that those who married under customary law went through a church, and churches were regulated under statutory law. Authority over children could depend on the tribe, since some tribes were patrilineal and others, matrilineal. Otherwise, both women and men had parental authority.

37. **Ms. Sithole-Mwenda** (Zambia) said that when a surviving spouse was not already protected by a will, the Intestate Succession Act established clear safeguards against property grabbing by setting out the percentages of the estate accruing to the spouse, her children and her dependents. It was wrong to accuse the Government of not assuming its responsibility with respect to the best interests of the child. The Juveniles Act and the Education Act provided strong protections. Nevertheless, it was up to the individual to institute proceedings.

Articles 3 to 6

38. **Ms. Rasekh** said that she would like information on specific laws, policies, special measures, substantive programmes and temporary special measures taken to ensure the full development and advancement of women and overcome the obstacles mentioned in the report, such as negative cultural attitudes. Such obstacles had been addressed in other countries, including countries in Africa, through quota systems and awareness campaigns, and Zambia should consider establishing a quota system.

39. **Ms. Šimonović** said that, according to the written responses (paras. 18.1-18.5), the State party was consulting on introducing temporary special measures. She wondered whether Zambia needed to establish legal grounds for introducing such measures and, if so, whether it was considering legislation, e.g., new laws on gender equality or family relations.

40. **Ms. Gabr** said that Zambia needed to take practical steps to implement its laws and programmes on the status of women, by working with traditional leaders and NGOs and by creating awareness and support at the grass-roots level, possibly through local radio. It was necessary to exercise political will, rather than reacting to statistics, which could be inaccurate. In her country, Egypt, where women had also traditionally played a subservient role in society,

statistics always incorrectly showed majority support for polygamy because the majority could not make itself heard over the loud voice of the articulate minority.

41. Violence against women was on the rise in Zambia. For the new Anti-Gender-Based Violence Act to be effective, it was important to work at the grass-roots level to empower women and to engage in a national social dialogue on violence against women, girls and the disabled.

42. Zambia was a destination, transit and source country for human trafficking. It was important, therefore, to enforce the laws and mechanisms already in place. It was also important to gather data that could inform decisions, and in that connection she was pleased to note that the Government was working with the International Labour Organization to assess the nature, extent, causes and consequences of trafficking. Consultation with countries in the region and with regional and subregional institutions that had had success in combating human trafficking could also be helpful.

43. **Ms. Zou Xiaqiao** noted that deep-rooted, harmful cultural practices were still widespread. For example, early marriage and childbirth were generally accepted, and according to a survey, many men and most women considered domestic violence acceptable. Eliminating such practices would take long-term commitment and political will and would require the State to work closely with civil society and NGOs. She was pleased that the State had adopted a national cultural policy and that human rights were being taught in public schools. She wondered if there were plans to require private schools to teach human rights as well. She also wondered if public officials also received training in human rights.

44. With respect to property grabbing by in-laws, under the Intestate Succession Act, 20 per cent of the estate went to the widow and 50 per cent to other family members. She would like to know if the State had contemplated legal measures to correct that harmful distribution.

45. **Ms. Awori** said that the report listed many administrative measures taken to eliminate sex-role stereotyping, prejudices and negative culture-based practices. It also cited three obstacles to success: entrenched negative cultural practices, limited access to radio stations in very remote areas and the urban

location of most human rights organizations, which prevented them from serving rural areas. What action was being taken to overcome those obstacles?

46. According to the statistics cited in Zambia's report, rape had been on the decline since 2003. It was hard to know, however, if the data were accurate, since in a culture of silence on sexual violence, rape tended to be drastically underreported. She would be interested to know if anything had been done to provide further protection against such violence.

47. **The Chair**, speaking in her capacity as an expert, said that the Committee would like to hear more about the various administrative measures that had been taken to eliminate harmful social stereotypes (report, para. 59) and their practical results, and also about the impact of the steps Zambia had taken to overcome obstacles to such measures (responses, paras. 10.1 and 10.2).

48. **Ms. Jahan** said that, although statistics were lacking, Zambia was clearly a source and a transit country for international human trafficking. Internal trafficking for purposes of sexual exploitation and forced labour was also apparently widespread. She would appreciate information as to whether the Anti-Human Trafficking Act of 2008 was fully aligned with the Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and whether the Act contained specific safeguards for women.

49. One of the major obstacles to the prosecution of trafficking had been the inadequacy of the Penal Code, which even as amended in 2005, appeared to lack a clearly defined trafficking offence. That shortcoming handicapped both police and prosecutors, and she asked if there had been any attempts to address it. In that connection, she would be interested in statistics on human trafficking prosecutions and convictions for at least the previous year. Given that traffickers preyed on ignorance, she wondered what awareness-raising measures the State had undertaken independently or in collaboration with NGOs. Regional cooperation was also essential.

50. Women migrant workers and refugees were vulnerable to violence and sexual exploitation. It had been generally alleged that in Zambia such women could be forced to provide sexual services in order to avoid deportation. She wished to know whether any

preventive measures, such as training for immigration and police officers, had been instituted, what mechanisms insured accountability, and if Zambia envisaged becoming a party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. It would also be useful to have statistics on the number of prostitution cases prosecuted and convicted, and to know whether prostitution itself was criminalized, or only the exploitation of prostitution.

51. **Ms. Sithole-Mwenda** (Zambia) said, regarding social action for women, that the Ministry of Community Development and Social Services had taken various steps to improve women's access to credit and to support entrepreneurship. It had also undertaken three kinds of welfare cash transfers: the pension scheme for the elderly, the inclusive model for the most indigent households and the child grant.

52. **Ms. Kalamwina** (Zambia) said that, following enactment of the 2010 Citizens' Economic Empowerment Act, it had become clear that women did not have easy access to the Women's Empowerment Fund. The Government had therefore directed appropriate ministries to set aside separate empowerment funds that would be more readily available. In addition, the sixth National Development Plan (2011-2015) required each sector to have programmes specifically designed to empower women.

53. In 2010, the Gender in Development Division had purchased around 160 hammer mills to enable groups of women to buy, process and sell maize, Zambia's staple food, and the Government also made sure that women could sell their maize to the country's many milling companies.

54. **Mr. Lamba** (Zambia) stressed the importance of the Women's Empowerment Fund and the cash transfer schemes. Another significant programme was the self-help initiative, through which the Government gave grants to individual women or groups of women, who devised their own economic development programmes.

55. **Ms. Kalamwina** (Zambia) said that, with respect to quota systems for women, all political parties were being encouraged to appoint women in decision-making positions, and the draft Constitution contained a new clause providing for the use of quotas. Regarding regional models for overcoming negative

social attitudes, the Government was not averse to looking at good practices in other countries.

56. **Mr. Lamba** (Zambia) said that the 2003 national cultural policy was important because it was Zambia's first such policy as a nation. However, it had failed to consider a number of issues, and was being revised in order to fill in the gaps, mainly by mainstreaming gender-related concerns. The new policy would take effect in 2012.

57. **Mr. Mvula** (Zambia) said that the Education Act of 2011 contained new gender-related provisions, including compulsory school attendance, prohibition of early marriages and of discrimination by educational institutions, provision for the education of vulnerable children, requirement of gender balance and equity in educational institutions and the educational system, and protection against gender-based violence. Since the Education Act also regulated private schools, human rights teaching was already mandatory in private schools.

58. **Ms. Kalamwina** (Zambia), addressing the question of measures to implement Convention-related laws and policies, said that the Government kept careful records of its gender-related laws in order to know which provisions of the Convention had been domesticated. A number of national action plans were being implemented, including the National Action Plan on Gender-Based Violence and the National Action Plan on Women, Girls and HIV/AIDS. Implementation of the Anti-Gender-Based Violence Act was provided for under the sixth National Development Plan. Zambia was also reviewing the National Action Plan on Gender-Based Violence to include provisions for budgeting and implementing new laws. In addition, Zambia had 12 one-stop centres for victims of gender-based violence, distributed throughout its nine provinces. The centres were run jointly by NGOs and the Government. For example, at the Lusaka centre, the Young Women's Christian Association operated the shelter, but the other services were provided by public police officers, social workers and medical personnel. In addition, Zambia operated homes for abused children, especially girls, and for the elderly throughout its nine provinces.

59. With regard to the survey indicating that both women and men considered it normal for a husband to beat his wife, it was very probably accurate. There were ongoing Government campaigns to increase

awareness that beating and being beaten were both wrong.

60. **Ms. Maimbo**, referring to the Intestate Succession Act, said that Ms. Zou's inheritance percentages were mistaken. Actually, 20 per cent of the estate went to the widow, 50 per cent to the children and 20 per cent to the parents of the deceased. Thus, most of the estate stayed with the immediate family.

61. **Ms. Mutasa** (Zambia) said that while the Intestate Succession Act did provide for near relatives in the absence of a surviving spouse or children, it offered strong protection for the immediate family. Also, the Government had allocated funds to the Human Rights Commission to sensitize people, especially in remote rural areas, to the provisions of the Act and to teach them to write wills.

62. **Ms. Timba Ngulube** (Zambia) said, on the question of violence against women that although very few cases had been reported in the past, it was because people had not understood what constituted reportable violence. They had since been educated to recognize offences such as defilement and sexual harassment. Police officers were also being trained in what constituted prosecutable gender-based violence through the Access to Justice programme.

63. **Mr. Chipalo** (Zambia) said that Penal Code deficiencies in the area of human trafficking had been corrected in 2008 with the enactment of the Anti-Human Trafficking Act. Subsequently, in 2009, there had been nine reported cases, with four convictions, four dismissals for lack of evidence and one case still pending. Human trafficking-control activities were funded under the Ministry of Home Affairs. The Ministry was stepping up sensitization through the mass media, and was also increasing border checks.

64. **Ms. Kawimbe** (Zambia) said that the anti-trafficking Protocol in question had been fully incorporated into domestic law.

65. **Ms. Kalamwina** (Zambia) said, regarding measures to eliminate sex-role stereotyping, that the Government had developed a comprehensive communication strategy centred on the media. It included many awareness programmes targeting editors, and focused on local radio stations, which could reach rural audiences in the local languages. In addition, the curriculum for media communications specialists was being revised to stress the importance

of portraying women positively and avoiding gender stereotypes. Already, fewer negative portrayals of women were appearing on television, and men were sometimes even seen washing dishes.

66. **Ms. Kawimbe** (Zambia) said that radio was available even in the most remote areas of the country, thanks to 12 community radio stations, 11 commercial stations, 9 religious stations and 2 foreign stations.

67. **Ms. Kalamwina** (Zambia) said that Zambia did not discriminate in any way against women migrant workers and their families.

68. **Mr. Kapilima** (Zambia) said that the Government was engaging in consultations with a view to ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. It was also working with the International Organization for Migration to conduct studies on the causes of migration in Zambia. They should be followed up by tripartite consultations among the employers organizations, the unions and the Government.

69. **Ms. Kawimbe** (Zambia) said that only activities relating to the exploitation of prostitution were criminalized under Zambian Penal Code, not prostitution per se.

70. **Ms. Halperin-Kaddari** said that she still needed clarification on how the estate was divided in the case of intestate succession. With respect to the Chibwe case, she asked whether the Supreme Court's precedent-setting decision was being applied in traditional courts and, if so, what was being done to make women aware of their rights. In general, she was unclear as to the workings of the Zambian judicial system and would appreciate more information about it. For example, could a traditional ruling be appealed directly to the Supreme Court?

71. **Ms. Šimonović**, noting that the draft Constitution still contained a provision similar to article 23, paragraph 4, of the Constitution in force, said that she would be interested in an explanation of what was an apparent lack of political will. She wondered how the Government had responded when the Special Rapporteur of the Human Rights Council on violence against women, its causes and consequences had raised the same issue. Lastly, she would be interested to know the format of the referendum on the draft Constitution.

72. **Ms. Schulz** asked whether the referendum would authorize changes to the Constitution, which would then be adopted in Parliament, or whether it would approve the revised Constitution itself.

73. **Ms. Bareiro-Bobadillo** said that she wondered if it might be possible for an NGO or other body to submit an alternative draft constitution so that voters could choose between it and one containing the same provision as article 23, paragraph 4. She would also appreciate specific figures on domestic violence.

74. **Ms. Gabr** requested information on psychological and physical violence against disabled women.

75. **The Chair**, speaking in her capacity as an expert on the subject of domestic violence, said that she would be interested in information on Zambian policies on older women, who were increasingly recognized as victims of domestic violence in all socio-economic categories the world over.

76. **Ms. Sithole-Mwenda** (Zambia) said that, in the event of intestate succession, 20 per cent of the estate went to the surviving spouse. If there were two wives, each received 10 per cent. Of the remaining estate, 50 per cent went to the children, 20 per cent to the parents and 10 per cent to dependents.

77. **Ms. Maimbo** (Zambia) said that there had been no systematic study of the extent to which the Chibwe precedent was being applied under customary law. However, in 2010 and early 2011, while conducting research to develop a customary marriages act, the Zambia Law Development Commission had found the local courts to be very much aware of the Chibwe case and, in some instances, to be applying the precedent. Some local courts had even started ordering spousal maintenance, which was alien to customary law.

78. She wished to clarify that while traditional and local courts both tried cases under customary law, only the local courts were officially recognized. As to whether it was possible to appeal local court decisions to the Supreme Court, a person who was unhappy with the outcome of a case decided under customary law in a local court could apply to a Subordinate Court, where the case would actually be retried. From there, it could go through to the chain of appeal to the Supreme Court.

79. Marital rape was not criminalized. However, the new Anti-Gender-Based Violence Act offered

protection to all victims of sexual abuse, including spouses.

80. **Ms. Kalamwina** (Zambia) said further that comprehensive studies had shown that the general public did not see marital rape as an issue. Parliament also saw no need to criminalize it. The Government could not force the concept on its people.

81. **Ms. Kawimbe** (Zambia) said that, since 2005, local court justices had been receiving training on human rights, gender issues and all equity-related matters through the Access to Justice programme, which would continue until the end of 2013.

82. **Ms. Sithole-Mwenda** (Zambia) said that there had been many widely divergent views on how the Constitution should be revised. The Government had demonstrated political will in making the proposed changes, which were already perhaps too risky. As for the format of the referendum, it would be determined at a later date. She added that while nothing prevented an NGO from proposing an alternative draft constitution, it was unlikely to be approved by the voters.

83. **Ms. Kawimbe** (Zambia) said that changes in the Bill of Rights must be put to referendum. Since the draft Constitution contained substantial changes in the Bill of Rights, it was therefore subject to referendum. The draft had been adopted by the National Constitutional Conference, consisting of more than 500 delegates from a cross-section of society, including representatives of NGOs.

84. **Ms. Timba Ngulube** (Zambia) said that there had been six cases of women murdered by their husbands in 2009 and five cases in 2010. She could not provide statistics on violence against disabled women because the Zambia did not have a separate reporting category for such offences.

85. **Mr. Lamba** (Zambia) said that the Ministry of Community Development and social services operated homes for older women, who were admitted primarily on the basis of age and social vulnerability. Most were indigent single parents and widows. The homes were located throughout the country, and the women were monitored by social welfare officers.

86. **Ms. Schulz**, returning to the issue of political will and article 23, paragraph 4, of the Constitution, said that political will was a matter of perspective. From the Committee's point of view, it meant the

Government's determination to guarantee rights arising under the Convention. Since much of the population was illiterate, she wondered how the people could be aware that rights available to them under the Convention were being denied them under article 23, paragraph 4. On the topic of the referendum itself, she would like to know if the people would vote yes or no on the entire draft Constitution, or article by article.

The meeting rose at 1 p.m.