

## ZAMBIA

### Follow-up - State Reporting

#### (i) Action by Treaty Bodies, Including Reports on Missions

CCPR, A/64/40, vol. I (2009)

### VII. FOLLOW UP TO CONCLUDING OBSERVATIONS

237. In chapter VII of its annual report for 2003,<sup>20</sup> the Committee described the framework that it has set out for providing for more effective follow up, subsequent to the adoption of the concluding observations in respect of States parties' reports submitted under article 40 of the Covenant. In chapter VII of its last annual report (A/63/40, vol. I), an updated account of the Committee's experience in this regard over the last year was provided. The current chapter again updates the Committee's experience to 1 August 2009.

238. Over the period covered by the present annual report, Sir Nigel Rodley acted as the Committee's Special Rapporteur for follow-up on concluding observations. At the Committee's ninety-fourth, ninety-fifth and ninety-sixth sessions, he presented progress reports to the Committee on inter-sessional developments and made recommendations which prompted the Committee to take appropriate decisions State by State.

239. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the following comprehensive table.<sup>21</sup> Over the reporting period, since 1 August 2008, 16 States parties (Austria, Barbados, Bosnia and Herzegovina, Chile, Costa Rica, Czech Republic, France, Georgia, Honduras, Hong Kong Special Administrative Region (China), Ireland, Libyan Arab Jamahiriya, Madagascar, Tunisia, Ukraine and United States of America), as well as the United Nations Interim Administration Mission in Kosovo (UNMIK), have submitted information to the Committee under the follow up procedure. Since the follow up procedure was instituted in March 2001, 11 States parties (Botswana, Central African Republic, Democratic Republic of the Congo, Equatorial Guinea, Gambia, Namibia, Panama, Sudan, the former Yugoslav Republic of Macedonia, Yemen and Zambia) have failed to supply follow up information that has fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the process of the next periodic report on the part of the State party.<sup>22</sup>

240. The table below takes account of some of the Working Group's recommendations and details the experience of the Committee over the last year. Accordingly, it contains no reference to those States parties with respect to which the Committee, upon assessment of the follow up responses provided to it, decided before 1 August 2008 to take no further action prior to the period covered by this report.

241. The Committee emphasizes that certain States parties have failed to cooperate with it in the performance of its functions under Part IV of the Covenant, thereby violating their obligations (Gambia, Equatorial Guinea).

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**Ninetieth session (July 2007)**

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**State party: Zambia**

**Report considered:** Third periodic (due since 30 June 1998), submitted on 16 December 2005.

**Information requested:**

Para. 10: Measures to increase the resources and powers granted to the Zambian Human Rights Commission (art. 2).

Para. 12: Measures to bring article 23 of the Constitution in line with articles 2, 3 and 26 of the Covenant.

Para. 13: Measures to bring customary laws and practices in line with the Covenant, particularly with regard to women's rights (arts. 2 and 3).

Para. 23: Development of alternative measures to imprisonment; ensure trials without unreasonable delay; measures to improve conditions and reduce overcrowding in prisons and detention facilities (arts. 7, 9 and 10).

**Date information due: 1 August 2008**

**Date information received: NONE RECEIVED**

**Action taken:**

Between September 2008 and May 2009 Three reminders were sent.

**Recommended action: If no information is received, consultations should be scheduled for the ninety-seventh session.**

**Next report due: 20 July 2011**

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20/ *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 40 (A/58/40), vol. I.*

21/ The table format was altered at the ninetieth session.

22/ As the next periodic report has become due with respect to the following States parties, the Committee has terminated the follow-up procedure despite deficient information or the absence of a follow-up report: Mali, Sri Lanka, Suriname, Namibia, Paraguay, and the Democratic Republic of the Congo.

**CCPR, CCPR/C/SR.2738/Add.1 (2010)**

Human Rights Committee  
Ninety-ninth session

Summary record of the second part (public) of the 2738th meeting  
Held at Palais Wilson, Geneva,  
on Wednesday 28 July 2010, at 11:25 am

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**Follow-up to concluding observations on State reports and to Views under the Optional Protocol**

*Report of the Special Rapporteur for Follow-up on Concluding Observations  
(CCPR/C/99/2/CRP.1)*

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2. **Mr. Amor**, Special Rapporteur for Follow-up on Concluding Observations, said that, while he commended the excellent work of the secretariat, it was regrettable that the relevant staff did not have more time to devote to follow-up on concluding observations. At the Committee's request, he had undertaken to supply details of the contents of the letters sent to States parties concerning follow-up in which the Committee asked for further information, urged the State to implement a recommendation or, alternatively, noted that a reply was satisfactory.

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19. He had met with representatives of Zambia, and in response to the replies they had given, he had sent a letter requesting more specific information on several issues. A reminder should now be sent.

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24. **The Chairperson** said that, if there was no objection, he took it that the Committee wished to adopt the Special Rapporteur's recommendations.

25. *It was so decided.*

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## Chapter VII: Follow-up to Concluding Observations

203. In chapter VII of its annual report for 2003,<sup>16</sup> the Committee described the framework that it has set out for providing for more effective follow-up, subsequent to the adoption of the concluding observations in respect of States parties' reports submitted under article 40 of the Covenant. In chapter VII of its last annual report,<sup>17</sup> an updated account of the Committee's experience in this regard over the last year was provided. The current chapter again updates the Committee's experience to 1 August 2010.

204. Over the period covered by the present annual report, Mr. Abdelfattah Amor acted as the Committee's Special Rapporteur for follow-up on concluding observations. At the Committee's ninety-seventh, ninety-eighth and ninety-ninth sessions, he presented progress reports to the Committee on intersessional developments and made recommendations which prompted the Committee to take appropriate decisions State by State.

205. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the following comprehensive table.<sup>18</sup> Over the reporting period, since 1 August 2009, 17 States parties (Bosnia and Herzegovina, Chile, Costa Rica, Czech Republic, Denmark, France, Georgia, Japan, Monaco, Spain, the former Yugoslav Republic of Macedonia, Sudan, Sweden, Tunisia, Ukraine, United Kingdom of Great Britain and Northern Ireland and Zambia), as well as the United Nations Interim Administration Mission in Kosovo (UNMIK), have submitted information to the Committee under the follow-up procedure. Since the follow-up procedure was instituted in March 2001, 12 States parties (Australia, Botswana, Central African Republic, Democratic Republic of the Congo, Equatorial Guinea, Gambia, Namibia, Nicaragua, Panama, Rwanda, San Marino and Yemen) have failed to supply follow-up information that has fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the preparation of the next periodic report by the State party.<sup>19</sup>

206. The table below takes account of some of the Working Group's recommendations and details the experience of the Committee over the last year. Accordingly, the report does not cover those States parties with respect to which the Committee has completed its follow-up activities, including all States parties which were considered from the seventy-first session (March 2001) to the eighty-fifth session (October 2005).

207. The Committee emphasizes that certain States parties have failed to cooperate with it in the performance of its functions under Part IV of the Covenant, thereby violating their obligations (Equatorial Guinea, Gambia).

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#### **Ninetieth session (July 2007)**

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#### **State party: Zambia**

**Report considered:** Third periodic (due since 30 June 1998), submitted on 16 December 2005.

#### **Information requested:**

Para. 10: Measures to increase the resources and powers granted to the Zambian Human Rights Commission (art. 2).

Para. 12: Measures to bring article 23 of the Constitution in line with articles 2, 3 and 26 of the Covenant.

Para. 13: Measures to bring customary laws and practices in line with the Covenant, particularly with regard to women's rights (arts. 2 and 3).

Para. 23: Development of alternative measures to imprisonment; ensure trials without unreasonable delay; measures to improve conditions and reduce overcrowding in prisons and detention facilities (arts. 7, 9 and 10).

**Date information due:** 1 August 2008

#### **Date information received:**

*9 December 2009* Follow-up report received (para. 10: no reply; paras. 12, 13 and 23: replies incomplete).

#### **Action taken:**

*Between September 2008 and May 2009* Three reminders were sent.

*7 October 2009* The Special Rapporteur requested a meeting with a representative of Zambia.

*28 October 2009* The Special Rapporteur met with a representative of the State party and discussed some points relating to the information requested. The representative of the State party informed the Special Rapporteur that the replies of the State party to the Committee's follow-up questions are currently being prepared and will be submitted as soon as possible (November

2009).

26 April 2010 A letter was sent requesting additional, more specific information on certain questions.

**Recommended action: A reminder should be sent.**

**Next report due: 20 July 2011**

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<sup>16</sup> *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 40*, vol. I (A/58/40 (vol. I)).

<sup>17</sup> *Ibid.*, *Sixty-Fourth Session, Supplement No. 40*, vol. I (A/64/40 (vol. I)).

<sup>18</sup> The table format was altered at the ninetieth session.

<sup>19</sup> As the next periodic report has become due with respect to the following States parties, the Committee has terminated the follow-up procedure despite deficient information or the absence of a follow-up report: Austria, Brazil, Central African Republic, Democratic Republic of the Congo, Hong Kong (China), Mali, Namibia, Paraguay, Republic of Korea, Sri Lanka, Suriname and Yemen.

**Follow-up - State Reporting**  
**(ii) Action by State Party**

**CCPR, CCPR/C/ZMB/CO/3/Add.1 (2009)**

**Information received from Zambia on the implementation of the concluding observations of the Human Rights Committee (CCPR/C/ZMB/CO/3)**

[9 December 2009]

**MEASURES TAKEN BY ZAMBIA TO IMPLEMENT THE RECOMMENDATIONS OF THE HUMAN RIGHTS COMMITTEE**

1. In reply to the Committee's letter dated 12 October 2009 pertaining to its concluding observations (CCPR/C/ZMB/CO/3), in which further information on the specific areas of concerns in its paragraphs 10, 12, 13 and 23 was requested, Zambia submitted the information below.

**Zambia Law Development Commission**

2. The Zambia Law Development Commission has embarked on consultations on legislation to govern customary marriages. It is envisaged that the proposed legislation will ensure that women are not discriminated against in the area of marriage and divorce. The proposed law will also deal with the issues of early marriages.

3. So far this year, the Commission has undertaken field research in all nine provinces of Zambia, as follows:

<b>Province</b>	<b>Districts covered</b>
Eastern	Chama, Lundazi, Katete and Chipata
Western Province	Mongu, Kaoma, Lukulu and Senanga
North-Western Province	Zambezi, Kabompo, Mwinilunga and Solwezi
Northern Province	Mbala, Nakonde, Mpika and Kasama
Luapula Province	Nchelenge, Chiengi, Mansa and Samfya
Central Province	Serenje, Mkushi, Chibombo and Kabwe
Southern Province	Kazungula, Sinazongwe and Namwala
Lusaka Province	Luangwa, Mumbwa, Chongwe, Kafue and Lusaka Urban

Copperbelt Province

Kitwe, Ndola, Mpongwe and Lufwanyama

4. The Committee may wish to know that, during research, research officers talked to Chiefs, Induna (Governors) and members of communities. They also talked to Local Court Magistrates, civil society organizations and non-governmental organizations.
5. The Commission is now in the process of preparing a working paper that will be the basis for further consultations with stakeholders in the course of next year.
6. During the consultations, the Commission will ensure that there is wider participation of women as major stakeholders in the process. Further, in order to discourage the persistence of customary practices that are detrimental to women's rights, the Commission will target traditional leaders (Chiefs) who are the custodians of traditions and customs. The Chiefs will be engaged in this process so that they can discourage their subjects from practicing negative traditions and customs that have the tendency to suppress women's rights.

### **Zambia Prisons Services**

7. Zambia acknowledges that it has been experiencing overcrowding in prisons, which has led to poor health conditions in places of detention in recent years.
8. The Government of Zambia, through the Zambia Prisons Service, has successfully undertaken effective intervention measures to address the problem of congestion and poor conditions in detention places. These measures include:
  - (a) The establishment of about 30 open-air prisons around the country as compared to three at the time of independence. This intervention has helped to reduce congestion at Lusaka Central Prison and other prisons in the country;
  - (b) The transfer of prisoners from overpopulated to less populated prisons, which has contributed to the reduction in overcrowding. For instance, a population of about 3,000 inmates at Lusaka Central Prison was reduced by transferring about 1,600 inmates to Kabwe and Kamfinsa prisons in November 2008;
  - (c) The Government has constructed a modern maximum-security prison at Mwembeshi which is already at completion stage. Livingstone Central Prison is being upgraded to a maximum-security prison. These measures will reduce dependence on Kabwe Maximum Security Prison. Kamfinsa Prison has also been rehabilitated and can accommodate a reasonable number of convicts.
  - (d) The exercise of the prerogative of mercy by the Republican President to pardon prisoners is one significant statutory measure that the Government has continued to use to reduce overcrowding in prisons. The power to pardon prisoners is vested in the President under Article 59 of the Zambia Constitution;
  - (e) The Government has also introduced a parole system following the enactment of the

Statutory Instrument No.101 of 2008. The National Parole Board was constituted to spearhead the implementation process of parole programmes. This Board comprises key stakeholders in the Criminal Justice System. In 2009, the Zambia Prisons Service released a total of 85 prisoners on parole while 45 cases are still under consideration;

(f) The Government has embarked on a pilot project to develop and improve on alternative measures to imprisonment. To that effect, the Government has introduced community services for offenders convicted for misdemeanors. The Prisons Act, Chapter 97, the Penal Code 88 and the Criminal Procedure Code Chapter 89 of the Laws of Zambia were amended to allow the courts to order community service as an alternative punishment to imprisonment;

(g) The Prisons Service has embarked on holding workshops and refresher courses for officers on humane treatment of offenders in accordance with the international standard minimum rules.

9. The Government of Zambia is working hard to ensure that the Prisons Service becomes self-sustaining in terms of food security for the prisons. To that end, the Government is providing prisons service with adequate agricultural equipment and inputs.

#### **Article 23 of the Zambian Constitution**

10. As regards the Committee's concern relating to Article 23 of the Constitution (para. 12 of the concluding observations), Zambia is currently undergoing a Constitutional Review Process through the National Constitutional Conference (NCC), as such an informed response will be given once this process is finalized.