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### Draft report of the Working Group on the Universal Periodic Review\*

### Zambia

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\* The final document will be issued under the symbol A/HRC/22/13. The annex to the present report is circulated as received.

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## Introduction

1. The Working Group on the Universal Periodic Review (UPR), established in accordance with Human Rights Council resolution 5/1 of 18 June 2007, held its fourteenth session from 22 October to 5 November 2012. The review of Zambia was held at the 12<sup>th</sup> meeting on 30 October 2012. The delegation of Zambia was headed by His Excellency Mr. Musa Mwenye. At its 18th meeting held on 2 November 2012, the Working Group adopted the report on Zambia
2. On 3 May 2012, the Human Rights Council selected the following group of rapporteurs (troika) to facilitate the review of Zambia: Burkina Faso, Thailand and the United States of America.
3. In accordance with paragraph 15 of the annex to resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21, the following documents were issued for the review of Zambia:
  - (a) A national report submitted/written presentation made in accordance with paragraph 15 (a) (A/HRC/WG.6/14/ZAM/1);
  - (b) A compilation prepared by OHCHR in accordance with paragraph 15 (b) (A/HRC/WG.6/14/ZAM/2);
  - (c) A summary prepared by OHCHR in accordance with paragraph 15 (c) (A/HRC/WG.6/14/ZAM/3).
4. A list of questions prepared in advance by Belarus, Denmark, Germany, Hungary, Mexico, Netherlands, Spain and United Kingdom of Great Britain and Northern Ireland was transmitted to Zambia through the troika. These questions are available on the extranet of the UPR.

## I. Summary of the proceedings of the review process

### A. Presentation by the State under review

5. The delegations stated that Zambia's participation in the Universal Periodic Review (UPR) process signified its continuous and consistent support to the objective of enhancing the protection and respect for human rights. Zambia was therefore pleased to be undergoing its second review.
6. The delegation highlighted some of the major achievements since the first review. It stated that Zambia has held peaceful and democratic elections in 2008 and 2011, respectively. Zambia was one of only a handful of Countries in Africa that have twice changed Governments from a ruling party to an opposition political party, and was fast becoming a model of democracy.
7. Zambia was currently undergoing Constitutional reform. A Technical Committee, appointed on the 16<sup>th</sup> of November 2011, has prepared a first draft Constitution. This Committee will hold consultative meetings in all the districts, followed by provincial Constitution conventions and a national convention. A second draft Constitution could be available by April 2013, which, depending on the final agreed text, could then be adopted in a referendum followed by parliamentary enactment.
8. The delegation stated that the task of making a Constitution resided in the people and the new Constitution will hopefully reflect the social economic and political aspirations

of the Zambian citizenry; and also that this process will accord the people the opportunity to agree on a definitive position on the death penalty.

9. Since elections in 2011, there has been a significant and remarkable increase in women in decision making positions. In this regard the delegation provided a number of examples of women in decision making positions. These examples included that of the Acting Chief Justice and Deputy Chief Justice of Zambia who were women and that five of the ten Judges on the Supreme Court were women. Additionally, of the 37 Permanent Secretaries appointed, 17 were women representing approximately 45.9 per cent.

10. The delegation stated that the draft Constitution will protect women from discriminatory laws and practices in the area of personal and customary law, and cited Article 27 in this regard. Consultations have also been finalized on proposed amendments to the Intestate Succession Act that will address discrepancies that disadvantage beneficiaries in the event that a male spouse dies without leaving a will. The amendments were expected to be taken to Parliament for enactment soon.

11. The delegation stated that Zambia has made major steps towards enhancing protection against gender based violence and cited in this regard the enactment of the Anti Gender Based Violence Act. Implementation of this Act has commenced with the establishment of safety shelters and the allocation of funds under the 2013 national budget to establish more places of safety countrywide. Also addressed, is the creation of awareness of gender based violence and a response to this violence through the preparation of a Joint Program of various activities to be carried out by various stakeholders in 2013.

12. The delegation stated that Zambia's goal was to ensure that all people enjoyed the same rights without any discrimination based on sex, race, disability, status or any other recognized ground which makes it unjustifiable to deny any person a right to which they are entitled.

13. Zambia was committed to ratifying all human rights instruments and to ensuring that those undertakings at international law were properly translated into domestic law and that progress has been and will continue to be made in this regard. Since the last review, Zambia has enacted the Anti-Human Trafficking Act 2008, the Anti-Gender based Violence Act of 2011, the Persons with Disabilities Act, 2012, and the Education Act No. 23 of 2011. Zambia will continue to domesticate the human rights instruments to which it was a party.

14. As regards the implementation of the Anti-Human Trafficking Act, the delegation stated that a national policy was put in place and an Inter-ministerial Task Force was set up to spearhead the implementation of this Act. Places of safety (shelters) were established and a fund to provide material support, rehabilitation and counselling for victims was set-up. With support from cooperating partners Zambia was conducting continuous awareness-raising and training programmes for law enforcement officers and relevant stakeholders.

15. The delegation stated that the Government will soon table the Freedom of Information Bill before Parliament for its consideration, which will be a major step in ensuring the protection of the right to information.

16. In light of the many concerns raised by civil society with regard to the Non-Governmental Organization Act, the Government was engaged in discussions with civil society to find the best way of creating an environment that enhanced the freedoms of civil society to operate without any unjustified restrictions.

17. Zambia has introduced the requirement to register mobile phone SIM cards, which was essential in protecting the general public against crime. It was committed to using this measure as a means of protecting the public rather than as a tool of repression of freedom of expression or unjustifiable invasion of privacy.

18. The delegation stated that in its resolve to fight corruption, Zambia has enacted the Anti-Corruption Act No. 3 of 2012 which sought to domesticate, amongst other instruments, the United Nations Convention against Corruption.

19. The delegation stated that, consistent with its commitment to providing equal educational opportunities to all children, Zambia has built schools in most rural areas; has also taken steps to ensure that the new schools have quality and motivated teachers; and has embarked on mass recruitment of teachers with initiatives which include higher pay and better conditions of service. Of the total budget for 2013, 17.5 percent have been dedicated to education.

20. As regards the concerns that have been raised with regard to the treatment of persons within the criminal justice system by the Police and Prisons Service, the delegations stated that the Government was committed to continued vigilance in an effort to enforce the law in a manner consistent with the Constitution and with the rights and dignity of all citizens.

21. Corporal punishment was outlawed in schools and in the prison system and the Constitution accorded protection from torture, without derogation. The Government has consistently trained law enforcement personnel in basic human rights and will continue to do so.

22. The delegation stated that the Government appreciated the gravity of the problem of overcrowding in some of the prisons. Although the problem remained critical, the Zambia Prisons Service has been decongesting highly congested prisons by transferring inmates to other prisons. Also, the Livingstone Central Prison has been renovated and upgraded to a grade "B" Maximum Prison. In addition, K4.7 billion (approximately 1 Million United States Dollars (1M US\$)) have been allocated to complete the construction of a Modern Maximum Security Prison in Mwembeshi. New prisons have been constructed in Western, Northern and Eastern provinces as part of the initiative to build prisons in all ten provinces. In addition, Presidential Pardons and conditional release by the National Parole Board have had a positive effect on reducing overcrowding in prisons. The Prisons amendment Act No. 16 of 2004 section 111 A had been used and 56 terminally ill prisoners had been released from 2009.

23. The delegation stated that the Medical Directorate in the Prisons Service established in compliance with the Prisons amendment Act No. 16 of 2004 has formulated a five year strategic plan for prisons health matters. The directorate has sent Coordinators to all Prisons with the responsibility of collecting monthly statistics on HIV/TB rates to enable the Government effectively respond to the needs of prisoners. There has been a reduction and control in the transmission of TB. The directorate has among its staff, an environmental technician who advises on the fitness of the environment in which inmates live and on the food which the inmates consume and a coordinating body on HIV/TB for related programmes. The Zambia Prisons Service has also taken measures to ensure that prisoners do not re-offend after discharge through a number of Rehabilitation programmes which are handled by the Offender Management Unit in the Service. Zambia was cognizant of the fact that a lot more needed to be done to improve the situation in prisons. Challenges persist not for want of trying but because of the sheer depth to which the situation had escalated.

24. The delegation stated that Zambia viewed the rights of children as critical. The draft Constitution contained progressive clauses that will further enhance children's rights, once adopted, as it will define a child in line with the Convention on the Rights of the Child. A review of all child related legislation was being undertaken to harmonize the definition of a child.

25. The Juveniles Act was also under revision and the Child Justice Administration Bill 2012 has been drafted. Section 28 of the Education Act, 2011 prohibited the imposition or administration of corporal punishment or degrading or inhuman treatment on a learner.

Through stakeholders, the Government has also produced and is distributing training modules and texts of the child protection policy to all teachers training colleges. The draft Constitution was also expected to enhance the protection of children from corporal punishment. If passed, Article 55(5)(g) will prohibit corporal punishment of children in the home, school and other institutions of care.

26. The delegation stated that poverty was a major factor affecting the enjoyment of human rights. Zambia's 2030 Vision was to be a middle income country and its efforts were being targeted, at among other things, wealth and job creation. Zambia's national development plans have included among the objectives and activities, continuous empowerment programmes and schemes for various identified vulnerable groups such as women, persons with disabilities. The Government has also recently announced an ambitious budget which proposed to create more than one million new jobs in the next five years.

27. The delegation stated that the vision of Zambia was to have a nation free from the threat of HIV and AIDS by 2030. A number of HIV, AIDS, STIs and TB cost effective and scientifically proven interventions have been implemented. Also, in recent years various programmes aimed at improved protection of the rights of persons affected and infected with HIV and AIDS have been conducted. Protection and promotion of human rights was intended to be one of the guiding pillars in the construction and implementation of the new national HIV and AIDS policy.

28. The delegation recalled that the Environmental Protection and Pollution Control Act (EPPCA) had been enacted in 1990. However, with the emergence of new environmental issues, a new Act, the Environmental Management Act (EMA) No. 12 of 2011, has been enacted. In addition to enhancing environmental protection mechanisms, the Act also augments participatory processes for local communities in decision making in relation to the use of their natural resources. Also, the development of the National Policy on the Environment (NPE) in 2007 marked a milestone in the harmonized management of the environment and natural resources.

29. The delegation stated that in an effort to reduce pressure on forest resources, a 20 year programme called the Zambia Forestry Action Programme (ZFAP, 2000 - 2020) was developed; aimed at promoting sustainable management and utilisation of forest resources. However, the implementation of this programme has been hampered by challenges such as insufficient funds and inadequate human resource. Zambia remained committed to this endeavour despite the admitted challenges.

30. The delegations stated that Zambia views participation in this UPR process as an opportunity to discuss its achievements, challenges, and future plans for the further promotion and protection of human rights not only within its boundaries but also around the world. It welcomed observations and recommendations that can help it achieve its goal of ensuring that every person enjoys all recognized human rights without discrimination.

## **B. Interactive dialogue and responses by the State under review**

31. During the interactive dialogue, 63 delegations made statements. Recommendations made during the dialogue are to be found in section II of the present report.

32. The Netherlands noted the progress made regarding a number of issues raised during the previous review. It enquired about information on specific measures taken to establish special centres for street children. The Netherlands referred to recommendation made by the Zambian National Aids Council on the need of more research on MSM. It made a recommendation.

33. New Zealand commended Zambia's decision to enact a new Constitution as well as its identification of health care as a national priority. It also referred to the establishment of an autonomous Human Rights Commission. However, it expressed disappointment at the health budget reduction in 2012. It also raised concerns about Zambia's high maternal mortality rate. It made recommendations.

34. Nicaragua welcomed the on-going constitutional reform process and expressed hope that it would guarantee all human rights and would be approved by referendum. Nicaragua made recommendations.

35. Nigeria welcomed the 2012 draft Constitution and enactment of the 2008 Anti-Human Trafficking Act. It commended Zambia for implementing free basic education for children, and acknowledged Zambia's efforts to combat corruption. It urged the international community to support Zambia in improving on identified human rights challenges.

36. Norway commended Zambia on the peaceful and constitutional transfer of powers and welcomed acceptance of the Zambian Human Rights Commission as a NHRI in accordance with Paris Principles. It welcomed the enactment of the 2011 Anti-Gender Based Violence Act while expressing concern over the persistence of gender violence. It raised stakeholders' concerns over prohibited consensual same-sex activity. It made recommendations.

37. Paraguay welcomed the creation of the Electoral Commission, the Police Public Complaints Authority and the Anti-Corruption Commission. It commended the constitutional reform process. It noted Zambia's landlocked position. It noted the importance of raising Zambians' awareness of human rights and solidarity and cooperation with other governments. Paraguay made a recommendation.

38. The Philippines acknowledged Zambia's efforts against gender bias and discriminatory practices against women. It noted continued improvement of the legal and institutional frameworks despite resource constraints. It commended Zambia's efforts to combat corruption. The Philippines welcomed the drafting of a new Constitution and enactment of the Anti-Human Trafficking act. It made recommendations.

39. Romania acknowledged the draft Constitution and the adoption of human rights laws that demonstrated that Zambia was working towards complying with its human rights obligations. However it regretted the discrimination against women and lack of ratification of the Protocols to the Convention on the rights of the child. It made a recommendation.

40. Rwanda commended Zambia on several human rights achievements including the adoption of the 2011 Anti-Gender Based Violence Act. It welcomed the population census. It noted the ongoing process to draft a new Constitution and expressed hope for it to include human rights. It made a recommendation.

41. Senegal noted the appropriate follow-up on the recommendations from the first UPR cycle. It acknowledged measures on rights for women, children and persons with disabilities and expressed hope for strengthening them in the new Constitution being drafted. It raised concerns over remaining difficulties and appealed for technical assistance for Zambia. It made recommendations.

42. Singapore noted progress in various areas including the promotion of gender balance and education. It noted adoption of the 2011 Anti-Gender Based Violence Act and the improved environment for women. It acknowledged efforts to combat the HIV/AIDS epidemic and reduction of HIV prevalence, and Zambia's achievement of MDG target. Singapore made recommendations.

43. Slovakia commended Zambia on ratification of CRPD and CPED. It acknowledged the standing invitation to HRC Special Procedures. Slovakia welcomed Zambia's level of 50% women on the High and Supreme Courts. It made recommendations.
44. Slovenia welcomed several positive steps including the enactment of the Anti-Gender Based Violence Act and national action plan on gender-based balance. However, it raised concern over lack of incorporation of human rights treaties into policy and legislation, and apparent lack of cooperation with treaty bodies. Slovenia made recommendations.
45. South Africa commended the enactment of the 2011 Anti-Gender Based Violence Act and requested further information on the progress of the national action plan against gender-based violence. It welcomed Zambia's open invitation to Special Procedures. It made a recommendation.
46. Spain congratulated Zambia for ratifying in 2010 the CRPD. It also appreciated efforts made in the fight against gender-based violence as well as bringing in line its national legislation with the CEDAW. It welcomed Zambia's open standing invitation to all Special Procedures. Spain made recommendations.
47. Sri Lanka noted the introduction of programmes aimed at accelerating the socio-economic empowerment of citizens, especially youth and women. It commended Zambia's focus on the rights of vulnerable groups. It welcomed the 2008 Anti-Human Trafficking act and commended the continued developments in the education sphere. Sri Lanka noted major challenge posed by the HIV/AIDS epidemic. It made a recommendation.
48. Sudan commended the combat against gender-based violence and the 2011 enactment of the anti-gender based violence act. It noted the establishment of the gender-based violence commission to monitor related activities. Sudan requested information on its impact and asked if it contributed to establishing guidelines on assistance to victims of gender-based violence.
49. Swaziland noted constitutional, judicial and policy measures for the protection of human rights undertaken by Zambia. It commended Zambia for the 2011 Technical Committee to draft a new constitution. Swaziland made a recommendation.
50. Thailand welcomed steps taken by Zambia in enhancing access of women's to decision-making positions and addressing gender-based violence. However it expressed concern over adverse cultural norms, traditions and stereotypes regarding the roles and status of women. It encouraged the international community to share good practices and provide assistance. It made recommendations.
51. Thailand welcomed steps taken by Zambia in enhancing access of women's to decision-making positions and addressing gender-based violence. However it expressed concern over adverse cultural norms, traditions and stereotypes regarding the roles and status of women. It encouraged the international community to share good practices and provide assistance. It made recommendations.
52. Togo welcomed legislation to protect persons with disabilities and combat gender-based violence and human-trafficking. It noted increased health budget, higher school enrolment and better gender equality in schools. It welcomed the 2011 law on education to make way for free compulsory basic education. Togo made recommendations.
53. Uganda noted extensive legal and policy reforms in response to UPR recommendations. It commended efforts to combat HIV/AIDS. Uganda made a recommendation.
54. Ukraine commended Zambia on its constitutional reform with particular attention to the rights of the child, persons with disabilities, women and other vulnerable sectors of the



community. It recognised the threat of the HIV/AIDS epidemic spread and encouraged Zambia to strengthen its efforts to combat it. Ukraine made a recommendation.

55. The United Kingdom of Great Britain and Northern Ireland expressed concern over prison conditions and the continued existence of the death penalty. It welcomed the creation of the Ministry of Gender. It encouraged Zambia to continue addressing gender inequalities and gender-based balance; improve enforcement of the employment law; and legislate to protect LGBT rights. It made recommendations.

56. The United States of America commended the 2011 peaceful change in power while expressing concern over the infringement of freedom of assembly. It noted the absence of a legal framework for the technical committee charged with constitutional reform. It praised efforts to combat corruption yet raised concerns on the considerable low number of investigations and convictions. It made recommendations.

57. Uruguay welcomed the progress made by Zambia in combatting gender-based violence; adoption of the anti-human trafficking Act and Zambia's open invitation to all Special Procedures Mandate holders. However, the CEDAW committee noted the negative impact of dual legal system given that in practice the customary law prevailed. Uruguay made recommendations.

58. Zimbabwe noted Zambia's commitment to fulfil its human rights obligations. It commended Zambia's open invitation to Special Procedures and recognised the three ensuing missions to Zambia. It acknowledged Zambia's efforts and challenges. Zimbabwe made recommendations.

59. Algeria noted the strengthened framework to protect human rights and the establishment of a Technical Committee to draft a new constitution. It welcomed Zambia's priorities on education, health, agriculture, local authorities and housing. It urged for international support for Zambia. Algeria made recommendations.

60. Angola congratulated Angola for the 2010-2020 human rights action plan. It recognised measures to improve prison conditions and laws to combat gender-based violence, human-trafficking, protect persons with disabilities and provide free primary and secondary education. Angola welcomed Zambia's accession to certain international human rights instruments. It made a recommendation.

61. Argentina welcomed the creation of the Ministry of Gender and Child Development. It commended Zambia on the ratification of the International Convention for All Persons from Enforced Disappearances. Argentina made recommendations.

62. Australia noted Zambia's abolitionist stance yet expressed concern over the continued existence of the death penalty. It acknowledged Zambia's constitutional review process and encouraged it to entrench human rights in law. Australia expressed concern over criminalisation of consensual same-sex relationships. It made recommendations.

63. Bangladesh commended implementation of 1st cycle UPR recommendations and adoption of human rights laws. It commended priority given to education, health and agriculture. It raised concerns over poverty and HIV/AIDS. Bangladesh noted the need of international support and requested information on Zambia's expectations from the international community to complement national efforts.

64. Belarus noted reports on human rights problems in several areas, including poverty and children's rights. It expressed concern about inter alia the sexual abuse of children, torture, prison overcrowding, gender inequality and discrimination against women, high maternal and infant mortality rate and low level of social protection. Belarus made recommendations.

65. The Republic of Benin appreciated the progress made by Zambia since its first report in 2008, referring to the technical committee to draft the new Constitution and the adoption of a policy to combat corruption. It called on the Zambian authorities to intensify actions in relation to promoting and protecting human rights in the country. It made recommendations.

66. With regard to issues relating to LGBT persons, the delegation stated that the Constitution making process will give the people the opportunity to determine whether specific rights for LGBT persons should be enshrined in the Constitution. The Government was determined not to prescribe to the Zambian people those rights that the Constitution should contain, but to let them make such a determination.

67. On the issue of marital rape, the Government was not aware that a problem persisted in this regard. In any event, the Anti-Gender Based Violence Act provided comprehensive provisions that criminalized all forms of violence against women. Issues of marital rape will rank within the definition of gender based violence prescribed in this Act.

68. The delegation stated that the Public Order Act was in conformity with the provisions of the Constitution. This Act has justifiable restrictions which were permitted under Article 21 of the ICCPR and have been affirmed in the Zambian courts. There were pending cases before the courts following admitted instances of possible excessive use of discretion by the police. The courts were more than capable of resolving these matters and the Government did not prescribe as to how they ought to be resolved.

69. Botswana commended Zambia's progress in legislating on gender violence and human trafficking. It noted progress in health, especially in the fight against HIV/AIDS. It note however that the Special Rapporteur on extreme poverty and human rights highlighted challenges regarding child registration. It asked Zambia if any steps are being taken to address this problem. It made a recommendation.

70. Brazil highlighted Zambia's improvements in freedom of the press and its commitment to enhancing its people's quality of life. It appreciated implementation of programmes aimed at youth and women in the education, health, agriculture and housing sectors. It welcomed Zambian Government's passing of the Anti-Gender Based Violence Act. It made recommendations.

71. Burkina Faso noted with satisfaction Zambia's progress in the fight against human trafficking. It encouraged pursuing the fight against gender violence, guaranteeing the rights of disabled persons and of children. It mentioned that Zambia was not yet a party to a number of international human rights instruments. It made a recommendation.

72. Burundi noted the Zambian Parliament's adoption of the Anti-Gender Based Violence Act and national directives on care for victims of gender violence. It noted the Government's adoption of the Education Act ensuring free basic education for all and improvements in prison conditions through release measures and new infrastructure.

73. Canada asked Zambia to provide information on progress to date in addressing discriminatory practices emanating from customary laws in relation to improving the situation of widows and children through protection of their right to inheritance and prevention of early marriages. It made recommendations.

74. Cape Verde encouraged Zambia to ratify more international instruments, including the protocol on abolition of the death penalty, to ensure effective application of adopted laws and policies, to implement robust measures to counter prison overcrowding and to extend and secure children's education and protection against forms of abuse.

75. Chad noted Zambia's adoption of Anti-Gender Based Violence, Anti-human Trafficking and Education Acts. It commended Zambia's efforts to ensure public awareness

of human rights by integrating relevant education into primary school programmes. It noted that Zambia is a party to the core international human rights instruments. It made a recommendation.

76. Chile noted the efforts made by Zambia authorities in their goal of effectively planning implementation of their people's economic, social human rights. While discriminatory practices and laws remain, Chile acknowledged better integration of gender-based issues into Zambia's public policies. It made recommendations.

77. China commended Zambia's efforts in national institution building, educational development, provision of low-cost housing and protection of the rights of persons with disabilities. It recalled that Zambia still faced major human rights challenges and called upon the international community to provide Zambia with technical assistance. It made a recommendation.

78. Congo appreciated Zambia's implementation of a framework providing means of preventing and combatting corruption in a global, coordinated, sustainable manner and development of a national programme for enhancing its capacities in terms of good governance. It noted Zambia's measures for treating and preventing HIV/AIDS, fighting against poverty and the implementation of the right to education. It made recommendations.

79. Cuba acknowledged Zambian Government's commitment to promoting and protecting the human rights of its people. It congratulated Zambian on its efforts to achieve millennium development goals. It noted that Zambia is focusing on access to secondary and tertiary education and is intensifying efforts to improve education generally. It commended progress made in combatting gender-based violence. It made a recommendation.

80. Cyprus acknowledged Zambia's progress towards free basic education for all. It encouraged the Government to redouble its efforts in protecting women's rights and access to justice and in developing training programmes for relevant judicial, law enforcement and health service personnel. It noted Zambia's commitment to fight against human trafficking and exploitation of children. It made a recommendation.

81. Egypt welcomed Zambia's recognition of the negative impact of human trafficking on enjoyment of human rights and its enactment of the relevant Act. It also welcomed adoption of the Anti-Corruption Policy. Egypt believed in Zambia's efforts to enhance its capacities in the field of human rights. It made recommendations.

82. Ethiopia noted the Zambian Parliament's enactment of Anti-Gender Based Violence and Human Trafficking legislation and its Government's initiative to enact legislation to protect the rights of persons with disabilities. It encouraged Zambia to continue its efforts to empower women and address robustly gender inequality in the country.

83. Finland commended the Zambian Government's commitment to support the socio-economic empowerment of women and measures it has taken to promote gender equality and women's rights. It remained concerned about full incorporation of CEDAW into Zambian law, especially with respect to the current constitution. It made recommendations.

84. France inquired about the process of ratifying the optional Protocol to CEDAW and on the mechanisms for guaranteeing implementation of the Anti-Gender Based Violence Act. It was concerned by Zambia's press restrictions and requested information on the current adoption status of the Freedom to Information Bill. It made recommendations.

85. Germany welcomed Zambia's commitment to fight corruption and enactment of anti-gender based legislation. It encouraged a further increase in budget allocations for the most pressing human rights-related programmes. It considered that prison inmates must have access to safe drinking water, sanitation, adequate nutrition and medical services. It

would welcome extension of Zambia's anti-discrimination commitment to sexual orientation.

86. Hungary noted Zambia's new draft constitution. It was concerned that violence against women and girls, including sexual violence, continues despite enactment of the Anti-Gender Based Violence Act. It mentioned the high dropout rate for girls in particular in rural areas and the lack of separate detention facilities for children. It made recommendations.

87. Indonesia welcomed Zambian legislative measures, particularly domestication of international human rights instruments on rights of women, children and persons with disabilities. It appreciated adoption of Zambia's anti-corruption policy and encouraged it to intensify implementation efforts to enable enhancement of good governance. It made recommendations.

88. Iraq appreciated Zambia's fight against gender-based violence and its efforts to ensure the rights of persons with disabilities. It also acknowledged Zambia's commitment to implement the provisions of the Convention on the rights of children and to providing access to education for all. It made recommendations.

89. Ireland welcomed Zambia's mainstreaming of gender in its 6th National Development Plan, its Ministry of Gender and Child Development, its anti-gender based violence legislation and appointment of women to high-level positions, despite fewer female parliamentarians. Ireland regretted Zambia's non-completion of human rights instrument domestication. It made recommendations.

90. Italy recalled CAT's concerns on the lack of hygiene and adequate food in Zambian prisons. It recalled CEDAW concerns on customary law-based discriminatory practices. It asked Zambia to elaborate further on Freedom of Information Bill adoption. It made recommendations.

91. Japan hoped strongly that Zambia's draft constitution will comprehensively embrace human rights principles and commended it on enactment of the Anti-Gender Based Violence Act and initial work to implement a related national plan of action. It understood that Zambia has taken measures to improve conditions in detention facilities in accordance with accepted recommendations. It made recommendations.

92. Kenya noted Zambia's impressive effort in ratifying most international human rights instruments and the Government's important collaboration with the UN Human Rights Office as well as human right mechanisms and procedures. It called on the United Nations offices and agencies to help Zambia to overcome its challenges. It made recommendations.

93. The Kingdom of Lesotho commended Zambia's achievements in socio-economic, civil and political spheres. It noted the Government's measures to overcome corruption in a comprehensive, inclusive and sustainable manner. It also noted Zambia's key priorities for promoting and protecting the rights of persons with disabilities to ensure their access to justice, education and employment among others.

94. Malaysia was encouraged by Zambia's initiatives in further empowering its citizens in the areas of health, education, agriculture, local government and housing. It expressed firm support in relation to Zambia's request for capacity-building and technical assistance to further enhance effective enjoyment of human rights nationally. It made recommendations.

95. Mauritania commended Zambia's adoption of the Law on combatting Human Trafficking and the Education Act, and for taking legislative measures to domesticate the provisions of the Convention on the elimination of all forms of discrimination against

women. It encouraged Zambia to intensify its fight against HIV/AIDS and to pursue its action to improve prison conditions.

96. Mexico noted Zambia's ratification of conventions on the rights of persons with disabilities and on protection against enforced disappearances. It welcomed measures taken to improve the education system and the increased budget for that sector. It trusted that actions undertaken to achieve equitable, accessible education at all levels will be strengthened. It made recommendations.

97. Morocco encouraged Zambia to pursue its efforts in education, health services, agriculture and housing, and in solving the prison overcrowding issue, strengthening good governance and fighting corruption. It wished to know Zambia's needs for technical and financial assistance in promoting and protecting human rights. It made a recommendation.

98. Namibia commended the Zambian Government for its commitment to the promotion and protection of human rights. It noted the ratification of most core international human rights instruments and enacting robust national legislation, including Anti-Human Trafficking Act No. 11, and for establishing the National Action Plan on Gender Based Violence. It made recommendations.

99. With regard to national budget for health, the delegation acknowledged that Zambia has not reached the 15 percent threshold but that there was a significant increase in the budget over the years. In 2010, the national budget for health was 8.2 percent; in 2011 it was 8.6 percent; in 2012 it was 9.3 percent and for 2013 it will be 11.3 percent. These budgetary allocations corrected the perception that there was a decrease in the budgetary allocation for health in 2012.

100. With regard to inheritance rights, the delegation acknowledged that few problems existed but endeavoured to correct the perception that female children were deprived of their inheritance. The Intestate Succession Act guaranteed all children of persons who died intestate 50 percent of the deceased estate irrespective of their gender. Twenty percent is guaranteed to the wife with a further 20 percent awarded to the parents and 10 percent to other beneficiaries. This Act entrenched the rights of female children and wives to inherit and was enforced in the local courts.

101. The delegation stated that all constitutional rights were enshrined in Part 3 of the Constitution and amending Part 3 will necessitate a referendum in which a minimum of 50 percent of all eligible voters must accede to such amendment. It was therefore impossible for Zambia to adopt a top-down approach with regard to these rights and it must accede to the wishes of its people as a matter of necessity.

102. The delegation thanked the Troika and all delegations for their constructive comments and recommendations.

## II. Conclusions and/or recommendations

103. **The recommendations listed below enjoy the support of Zambia:**

103.1. **Put Continue working on its capacity building program for good governance (Nicaragua);**

103.2 **Continue to enhance its cooperation with development partners in order to improve its financial and technical capacity to implement the anti-trafficking law (Philippines);**

103.3. Maintain its positive efforts in the current process of reviewing its national laws with a view to bringing them in line with its international human rights obligations (Egypt);

103.4. Lobby for and implement access to information legislation to encourage greater transparency and government ability (United States of America);

103.5. Take every measure to ensure the effective implementation of CAT particularly in detention centres (France)

103.6. Increase its efforts to further strengthen the national mechanism for the advancement of women and to provide such mechanism with adequate resources (Malaysia);

103.7. Facilitate the strengthening of cooperation and coordination among the various institutions and commissions with different mandates that will enable effective and comprehensive implementation of the recommendations of the UPR mechanism, treaty bodies and special procedures mandate holders (Indonesia);

103.8. Provide sufficient funding for the National Human Rights Institution, enabling them to carry out its task as Human Rights watchdog (Norway);

103.9. Continue its efforts in improving coordination among national institutions involved in the implementation of human rights programs and recommendations of treaties bodies as well as those made by Human Rights Council Special Procedures mandate holders (Angola);

103.10. Continue to consolidate the impressive gains that the country has thus far made in the promotion of Human Rights including in the sphere of health and social services (Zimbabwe);

103.11. Take all necessary steps to honour its commitments under the Abuja Declaration (New Zealand);

103.12. Establish or strengthen independent public accountability mechanisms which contribute with the fight against corruption (Nicaragua);

103.13. Explore the possibility of utilizing human rights training and programs, and other similar efforts to further mainstream the promotion of the rights of women and children (Philippines);

103.14. Invest more on a workable programme that would ensure the smooth coordination and implementation of their own initiatives and the different recommendations by treaty bodies (Swaziland);

103.15. Continue giving priorities to human rights education and awareness raising in the Government's plans, strategies and programs, and to enhance the participation of civil society and private sector, as appropriate, as a complementary driving force in this regard (Thailand);

103.16. Strengthen its cooperation with the mechanisms of the United Nations system as well as the financial institutions in order to take up the multiple challenges (Benin);

103.17. Continue its engagement with the United Nations Human Rights Office, as well as the human rights mechanisms and procedures for further enhancement of meaningful benefit (Kenya);

- 103.18. **Cooperate with the Special Rapporteurs visiting the country and take into account their views (Chad);**
- 103.19. **Extend an invitation to the Special Procedures (Iraq);**
- 103.20. **Undertake every effort to promote awareness of the rights of the child (France);**
- 103.21. **Enact measures concerning women's and children's rights, with the view to addressing the current problems in these fields (Romania);**
- 103.22. **Adopt plans and programs to eliminate torture and other forms of inhumane treatment and such education should be provided to prison authorities and wardens (Iraq);**
- 103.23. **Adopt additional measures, including legislative, to eliminate the practice of child labour exploitation and the use of corporal punishment for children (Belarus);**
- 103.24. **Adopt and implement appropriate measures to address the sexual abuse and exploitation of children as well as child labour (Slovakia);**
- 103.25. **Prohibit corporal punishment of children in all settings (Slovenia);**
- 103.26. **Review its legislation to prohibit and sanction corporal punishments of children in all areas (Mexico);**
- 103.27. **Strengthen its efforts to combat violence against women, including by enacting and implementing necessary legislation and measures to ensure proper investigation and prosecution of sexual violence, thereby promoting access to remedy for victims (Japan);**
- 103.28. **Continue to enhance, with the cooperation of the relevant United Nations agencies, its efforts to eliminate gender-based violence (Singapore);**
- 103.29. **Ensure effective implementation of the Anti-Gender Based Violence Act with particular focus on victims' access to justice (Slovakia);**
- 103.30. **Take the necessary steps to ensure effective implementation of the Anti-Gender Based Violence Act (Hungary)<sup>1</sup>;**
- 103.31. **Establish the Anti-Gender based Violence Fund as provided for in the Act of 2011(South Africa);**
- 103.32. **Implement CEDAW's call to put in place a strategy to eliminate violence, harmful practices and stereotypes against women in line with the Convention (Slovenia);**
- 103.33. **Address the continued high prevalence of violence against women and girls, including by strengthening training for the judiciary and law enforcement personnel to enhance their capacity to respond effectively to cases of violence against women and girls (Canada);**
- 103.34. **Adopt prevention measures against sexual abuses (Iraq);**

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<sup>1</sup> The Recommendation has made during the interactive dialogue was as follows: "Take the necessary steps to ensure effective implementation of the Anti-Gender Based Violence Act and provide statistical data regarding convictions for reported incidents of rape and defilement at its mid-term review (Hungary)".

- 103.35. **Improve conditions in prisons and detention centres vis-à-vis their overcrowding, including inmates' access to food and hygiene (Slovakia);**
- 103.36. **Keep on the current efforts to improve conditions of detention including limiting the over crowdedness of prisons (Egypt);**
- 103.37. **Bring conditions in detention centres in line with international standards (Hungary)<sup>2</sup>;**
- 103.38. **Address prison overcrowding and separate children from adult prisoners (Iraq);**
- 103.39. **Step up its efforts to address over-crowding in correctional facilities and to improve sanitary conditions in these centres (Italy);**
- 103.40. **Pay attention to the rehabilitation of prisoners (Italy);**
- 103.41. **Continue to improve its treatment of prisoners in keeping with the United Nations Standard Minimum Rules for the Treatment of Prisoners (Japan);**
- 103.42. **Seek the support of the relevant partners to pursue its efforts in its fight against trafficking in persons (Burkina Faso);**
- 103.43. **Ensure thorough and impartial investigation into all allegations of attacks and threats against individuals targeted because of their sexual orientation or gender identity (Norway);**
- 103.44. **Ensure that the freedoms of assembly and expression are upheld and respect the 2003 Supreme Court ruling stating that these freedoms are fundamental (United States of America);**
- 103.45. **Continue to create just and favourable conditions of work (Namibia);**
- 103.46. **Provide adapted solutions to the problems identified in the rural areas (Senegal);**
- 103.47. **Ensure progressive enjoyment of the right to health (Togo);**
- 103.48. **Continue to implement measures which allow all people to have access to health care service (Cuba);**
- 103.49. **Carry on with ensuring the reduction of HIV prevalence in Zambia (Egypt);**
- 103.50. **Continue to increase its inputs into health and strengthen HIV/AIDS control so as to reduce the incidents of HIV /AIDS (China);**
- 103.51. **Continue with efforts to combat HIV/AIDS (Sri Lanka);**
- 103.52. **Pursue efforts to combat the HIV/AIDS pandemic, particularly by the implementation of a national strategic plan to fight against this pandemic (Algeria);**
- 103.53. **Step up efforts in prevention and treatment of HIV/AIDS infections (Belarus);**

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<sup>2</sup> The Recommendation has made during the interactive dialogue was as follows: "Take the necessary steps to ensure effective implementation of the Anti Gender Based Violence Act and provide statistical data regarding convictions for reported incidents of rape and defilement at its mid-term review (Hungary)".



- 103.54. Continue its programmes and interventions to reduce the HIV/AIDS infections among its people with the support of the WHO and other international organisations (Singapore);
- 103.55. Continue strengthening measures to address and lessen the HIV/AIDS impact on women and children, in particular, the mother-to child-transmission (The Thailand);
- 103.56. Take more steps in the fight against HIV/AIDS by carrying out sensitization programmes and also learning from the best practices available in this area (Uganda);
- 103.57. Allocate specific funding within its health budget for child, maternal and reproductive health (New Zealand);
- 103.58. Increase its national budget in the areas of health to ensure that its health facilities meet the Ministry of Health's guidelines and requirements with regard to equipment and services (Malaysia);
- 103.59. Allocate adequate resources for the health sector as well as to ensure free access to health facilities to the needy (Namibia);
- 103.60. Remedy the lack of human resources in the area of health, the lack of medication and the lack of infrastructures (Congo);
- 103.61. Strengthen its efforts to reduce maternal mortality rates (New Zealand);
- 103.62. Pursue its efforts in the area of health and education (Senegal);
- 103.63. Improve school infrastructure in rural areas (Togo);
- 103.64. Continue efforts to ensure that human rights education is effectively included into the primary and secondary education curriculum (Paraguay);
- 103.65. Strengthen efforts to broaden access to education, in general, and to secondary and higher education in particular (Algeria);
- 103.66. Provide for adequate and consistent funding to all schools and learning institutions and ensure accountability and transparency in such funding (Hungary);
- 103.67. Ensure that funding in the education sector is consistent and reaches children with special needs, as well as schools in rural areas (Mexico);
- 103.68. Strengthen the governance of natural resources to ensure, amongst others, their sustainable utilization (Namibia);
- 103.69. Adopt comprehensive measures to combat trafficking in human beings; Organise a visit of the Special Rapporteur on human trafficking as well as of the Special Rapporteur on the sale of children, child prostitution and child pornography to the country (Belarus);
- 103.70. Increase the capacity building and technical assistance to enable the country to implement its national priorities including the National Strategic Plan in the sphere of education (Zimbabwe);
104. The recommendations listed below will be further examined by Zambia and responses will be provided in due time, but no later than the 22<sup>nd</sup> session of the Human Rights Council in March 2013. These responses will be included in the outcome report adopted by the Human Rights Council at its 22<sup>nd</sup> session in March 2013:

- 104.1. Consider the ratification of the following international instruments: the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty; the Optional Protocol of the Convention on Economic, Social and Cultural Rights; and the Optional Protocol to the Convention on the Elimination of All forms of Discrimination against Women (Rwanda);
- 104.2. Ratify all main international human rights treaties, especially ICCPR-OP2, OP-CAT, OP-CRC-AC and OP-CRC-SC, and incorporate these treaties fully in the national legislation (Slovenia);
- 104.3. Consider an early ratification of the third Optional protocol to CRC on communication procedure (Slovakia);
- 104.4. Ratify the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; Second Optional Protocol to the International Covenant on Civil and Political Rights; Optional Protocol to the Convention on the Elimination of all Forms of Discrimination against Women; Optional Protocol to the Convention on the Rights of Persons with Disabilities; First and Second Optional Protocols to the Convention on the Rights of the Child (Spain);
- 104.5. Ratify the Optional Protocol to CEDAW (Togo);
- 104.6. Ratify the remaining international human rights instruments and implement them and follow up on them (Benin);
- 104.7. Consider ratifying the Optional Protocol to Convention on the Elimination of All Forms of Discrimination against Women (Brazil);
- 104.8. Consider ratifying the International Convention on the protection of the rights of All Migrant Workers and Members of their Families (Indonesia);
- 104.9. Consider acceding to the Second Optional Protocol to the ICCPR (Italy);
- 104.10. Consider ratifying the remaining instruments in a progressive manner and have them effectively incorporated in the national legislation for effective implementation (Kenya);
- 104.11. Step up its efforts towards the full implementation of the Anti-Human Trafficking Act of 2008, and consider ratifying the two Optional Protocols to the Convention on the rights of the Child (Cyprus);
- 104.12. Enshrine the principle of equality and non-discrimination in the Constitution without qualifications by avoiding any discriminatory clauses as the draft is finalised (Ireland);
- 104.13. Guarantee, within the framework of the Constitutional reform, both individual and collective rights, under the principles of equality, taking into account its international human rights obligations (Nicaragua);
- 104.14. Hold a transparent and inclusive Constitutional reform process and referendum by ensuring that consultative bodies, such as National and Sector Group Convention, are composed of a representative balance of civil society and government stakeholders (United States of America);
- 104.15. Ensure that the provisions of the Convention on the Elimination of All Forms of Discrimination against Women are reflected in the new draft constitution by, inter alia, retaining the removal of article 23 (Finland);

- 104.16. Remove from the final version of the new Constitution all references to traditions or customary law in the field of family and private law which may be conducive to violations of human rights (Italy);
- 104.17. Enact and amend legislation to ensure that the prohibition against discrimination is in line with the Convention on the Elimination of All Forms of Discrimination against Women, especially with article 1 concerning direct and indirect discrimination in general, and article 16 relating to marriage and family relations (Finland);
- 104.18. Complete the process of full alignment of its national legislation with all obligations under the Rome Statute of the ICC and accede to the Agreement on Privileges and Immunities of the Court (Slovakia);
- 104.19. Harmonise traditional and legal regulations regarding the protection of women as well as the elimination of all exceptions, based in traditional practices, to the principle of non-discrimination of article 23 of the Constitution (Spain);
- 104.20. Eliminate criminalization of homosexual relations as well as the elimination of all discriminatory practice towards LGBT persons (Spain);
- 104.21. Decriminalise same-sex relationships between consenting adults and strengthen efforts to address inequality and discrimination based on sexual orientation (Australia);
- 104.22. Repeal laws that criminalize a person's sexuality (Canada);
- 104.23. Repeal the law criminalizing same-sex relations among consenting adults (France);
- 104.24. Review and repeal domestic law which criminalizes sexual orientation (Uruguay);
- 104.25. Harmonise in the criminal code and in the consuetudinary law the definition of a minor with the Convention on the Rights of the Child (Spain);
- 104.26. Establish a definition of the child in accordance with Article 1 and other principles and provisions of the Convention on the Rights of the Child (CRC); increase the legal age of majority of criminal responsibility; review legislation in force and customary law which establish different minimum ages in different sectors and which may not be in accordance with the relevant provisions of the CRC (Uruguay);
- 104.27. Adopt measures to guarantee that statutory law prevails in case of conflict with customary practices, especially in family relations; implement awareness campaigns to better inform persons regarding the rights enshrined in Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); provide training for customary and traditional courts administrators regarding CEDAW as well as statutory law which promotes and guarantees the rights of women and girls, including with respect to marriage and family relations (Uruguay);
- 104.28. Undertake efforts to ensure that the new draft constitution covers the equality of women condition (Chile);
- 104.29. Incorporate the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) into the national legislation in order that its provisions could be invoked before the courts (Chile);

- 104.30. Evaluate the possibility to incorporate the principle of non-refoulement into the refugees law (Argentina);
- 104.31. Provide a mid-term update on the implementation of the recommendations of this UPR (Hungary);
- 104.32. Extend an invitation to the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Special Rapporteur on the Independence of Judges and Lawyers; and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (Belarus);
- 104.33. Remedy the lack of coordination between the main human rights institutions (Congo);
- 104.34. Apply special temporary measures in all areas where women are underrepresented or under unfavourable conditions (Chile);
- 104.35. Study the possibility of strengthening measures to eliminate all discriminatory treatment based on sexual orientation and gender identity (Argentina);
- 104.36. Take the necessary measures to eliminate all discriminatory treatment towards persons with disabilities including the ratification of the Optional Protocol to the Convention on the Rights of Persons with Disabilities (Argentina);
- 104.37. Abolish the death penalty (Burundi, Namibia and Togo);
- 104.38. Take steps to abolish the death penalty (New Zealand);
- 104.39. Abolish the death penalty in the new Constitution and pending the abolition of the death penalty, establish an official moratorium on the use of the death penalty (Slovenia);
- 104.40. Abolish definitely the death penalty as a culmination to the de facto moratorium which has been in place since 1997 (Spain);
- 104.41. Restrict the application and to consider the possibility of abolition of the death penalty (Ukraine);
- 104.42. Legislate to remove the death penalty from its statute and commute to custodial sentences those death sentences that have already been handed down (United Kingdom of Great Britain and Northern Ireland);
- 104.43. Consider revising its legislation with a view to eliminating the death penalty (Brazil);
- 104.44. Consider the possibility to establish a de jure moratorium with a view to abolishing the death penalty (Italy);
- 104.45. Abolish the death penalty and accede to the Second Optional Protocol to the ICCPR (Australia);
- 104.46. Abolish the death penalty in law and consider ratifying the Second Optional Protocol to the ICCPR (France);
- 104.47. Adopt concrete measures to address violence against women, including by criminalizing marital rape and increasing public awareness of the problem, with a particular focus on religious and community leaders (Norway);
- 104.48. Recognize marital rape as a criminal offence (Canada);

- 104.49. **Provide statistical data regarding convictions for reported incidents of rape and defilement at its mid-term review (Hungary);<sup>3</sup>**
- 104.50. **Provide an update at its mid-term review on the number of detention centres in the country containing separate facilities for juvenile offenders (Hungary)<sup>4</sup>;**
- 104.51. **Repeal any law limiting the right to free expression in the media (Iraq);**
- 104.52. **Take the necessary steps to ensure that its legal system and policies are in full compliance with its international obligations in respect of freedom of expression and that the media and journalists are guaranteed the necessary freedoms to carry out their work independently and without fear of prosecution (Ireland);**
- 104.53. **Make the necessary legislative changes, including restricting the scope of the Public Order Act, to ensure the fullest possible freedoms of association and expression; and to ensure the police enforce these and other laws in a proportionate manner, including in Western Province (United Kingdom of Great Britain and Northern Ireland);**
- 104.54. **Adopt the necessary measures to guarantee easy and effective access to free birth registration (Mexico);**
105. **The recommendations below did not enjoy the support of Zambia**
- 105.1. **Follow up on the recommendations by its National Aids Council, and include men having sex with other men in its HIV/AIDS policies (The Netherlands);**

**All conclusions and/or recommendations contained in the present report reflect the position of the submitting State(s) and/or the State under review. They should not be construed as endorsed by the Working Group as a whole.**

<sup>3</sup> The Recommendation has made during the interactive dialogue was as follows: “Take the necessary steps to ensure effective implementation of the Anti Gender Based Violence Act and provide statistical data regarding convictions for reported incidents of rape and defilement at its mid-term review (Hungary).”

<sup>4</sup> The Recommendation has made during the interactive dialogue was as follows: “Bring conditions in detention centres in line with international standards and provide an update at its mid-term review on the number of detention centres in the country containing separate facilities for juvenile offenders (Hungary)”.

Annex

## **Composition of the delegation**

The delegation of Zambia was headed by His Excellency Mr. Musa Mwenye, SC Solicitor General, Ministry of Justice, and composed of the following members:

- H.E. Ambassador E. Sinjela Ambassador & Permanent Representative, Zambia Permanent Mission, Geneva;
  - Mrs. Catherine Lishomwa Deputy Permanent Representative, Zambia Mission, Geneva;
  - Mrs. Annette C. Nhekairo Director, Zambia Law Development Commission;
  - Mr. Samson Lungo First Secretary (Political), Zambia Permanent Mission, Geneva;
  - Mr. Conrad Sichande Acting Counsel, Ministry of Justice;
  - Mrs. Sambwa Simbyakula Chilembo State Advocate, Ministry of Justice;
  - Mrs. Weka Namposya Banda Senior Planner, Ministry of Community Development Mother and Child Health;
  - Mr. Monford Chishimba Legal Officer, Zambian Prisons Service;
  - Mr. Katele M. Kalumba Legal Advisor, Office of the Commissioner for Refugees.
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