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Zambia

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I. Methodology

1. The Republic of Zambia was reviewed under the Universal Periodic Review in May, 2008. Following the review, Zambia accepted nineteen recommendations and undertook to consider eleven recommendations and inform the Human Rights Council of its position during the eighth session of the Council. Zambia did not accept three recommendations.¹ The recommendations that were accepted were made available to various government departments and ministries to ensure that the recommendations are implemented through institutions' strategic plans.

2. In order to prepare the national report for the second cycle of review, the Ministry of Justice prepared questionnaires for relevant institutions. The purpose of this exercise was to gather information on what the government departments and ministries had done to implement the recommendations that were received during the review of Zambia in 2008. The information that was gathered was then compiled into a draft report that was used as a basis for discussions during national consultations. These consultations included broad participation from all the ten provinces of the country. Participants for the consultative process were drawn from both Government and Civil Society Organisations.

II. Developments since the last review

3. Since the last review, Zambia has had two presidential elections held on 30th October 2008 and 20th September 2011 respectively. The elections of 30th October 2008 were brought about by the death of the 3rd Republican President.

4. Following the elections of 20th September, 2011, a new government took office and affirmed the need to improve the quality of life for the majority of the people of Zambia, especially those in rural areas. The new government aims to achieve higher and sustained economic growth through the introduction of programmes aimed at accelerating the socio-economic empowerment of citizens, especially the youth and women. The core areas of focus for the new government are education, health, agriculture, local government and housing.

5. Since the last review, Zambia undertook a census of the population. The results of the census indicate that the population of Zambia has been increasing from 7,759,161 in 1990, 9,885,591 in 2000 to 13,046,508 persons in 2010. This gives an average annual growth rate of 3.2 percent between 2000 and 2010. Of the 13,046,508 persons, 6,394,455 were males while 6,652,053 were females. The results of the census will assist the Government to effectively plan for the realisation of economic and social rights of the people of Zambia, among other things.

6. Zambia has undergone a number of constitution-making processes since gaining independence in 1964. The majority of previous constitution-making processes are considered to have been unsuccessful because the end products of the processes did not reflect the wishes and aspirations of the majority of Zambians. Following the ushering into office of the fifth President of the Republic of Zambia, His Excellency, Mr. Michael Chilufya Sata, a Technical Committee was appointed on 16th November, 2011 to draft a Constitution that would meet the wishes and aspirations of the people of Zambia. The broad Terms of Reference for the Technical Committee include reviewing draft Constitutions and

¹ The recommendations that were not accepted included the recommendation that Zambia should decriminalise same-sex sexual activity between consenting adults and that Zambia should develop programmes to respond to the HIV/AIDS related needs of sexually active gay men.

Reports of previous Constitution Review Commissions and to come up with a draft Constitution that ensures the separation of powers amongst the various State organs so as to create checks and balances among them and to ensure accountability and to draft a National Constitution that incorporates social, economic, cultural, religious and environmental rights for all Zambians, paying particular attention to the rights of the child, persons with disabilities, women and other vulnerable sectors of the community.

7. The Technical Committee launched the consultative process with the release of the first draft Constitution to the public on 30th April, 2012. The draft Constitution aims to protect a broader array of human rights in that the Bill of Rights covers economic, social and cultural rights, enhances the rights of women and promotes non-discrimination, the rights of the child, the elderly and persons with disabilities. The draft Constitution recognises that freedom from torture, freedom of conscience and religion among others, are non-derogable. The new Constitution will be adopted by the people of Zambia through a National Referendum.

8. In order to further enhance the protection and promotion of the rights of women, Government has continued to support programmes for the advancement of women under the Ministry of Gender and Child Development.² The Government of Zambia recognises that unless gender is taken into account in formulating and implementing policies by taking into account the needs of each gender, Government's overall objectives for development are unlikely to be fully achieved. It is, therefore, Government's intention to continue to advance gender mainstreaming into policies and legislation and to support the socio-economic empowerment of all, especially women.

III. Normative and institutional framework for the protection of human rights

A. Constitution

9. The Zambian Constitutional framework on the respect for, promotion and protection of human rights and fundamental freedoms is provided for under Chapter III (Bill of Rights) of the Constitution of Zambia, Chapter 1 of the Laws of Zambia.

10. The Constitution of Zambia is founded on core values and principles of recognition of the equal worth of men and women; respect for the rights and dignity of the human family; the rule of law; and upholding democracy, transparency, accountability and good governance.

11. The Constitution of Zambia aims at giving practical effect towards the fulfilment of all human rights although economic, social and cultural rights are non-justiciable and are provided for under the Directive Principles of State Policy.

B. Legislative measures

12. Since the last review, Parliament enacted the Anti-Gender Based Violence Act No. 1 of 2011. The Act provides for the protection of victims of gender based violence. It establishes the Anti-Gender Based Violence Committee whose functions are to, *inter alia*, monitor the activities of all relevant institutions on matters connected with gender based

² The Gender in Development Division, which was responsible for Gender issues, has now been elevated to a Ministry headed by a full cabinet minister.

violence; make recommendations for a national plan of action against gender based violence; and monitor and report on the progress of the national plan of action. The Act also establishes an Anti-Gender Based Violence Fund.

13. The Government of Zambia recognises the negative impact that trafficking in persons has on the enjoyment of human rights, such as freedom from slavery, servitude and forced labour. It is for this reason that during the period under review, Parliament enacted the Anti- Human Trafficking Act No. 11 of 2008. The Act makes provision for the prohibition, prevention and prosecution of offences relating to human trafficking. It is the most comprehensive law in the fight against human trafficking and it domesticates the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

14. Government has initiated the enactment of legislation which seeks to protect the rights of persons with disabilities. The Persons with Disabilities Bill seeks to domesticate the United Nations Convention on the Rights of Persons with Disabilities. The legislation will promote and protect the rights of persons with disabilities to access to justice, participation in public and political life, the right to education, employment and freedom of movement. The Bill prohibits discrimination against persons with disabilities with regard to all forms of employment, including conditions of recruitment and safe working conditions.

15. The Government of Zambia enacted the Education Act No. 23 of 2011 to repeal and replace the Education Act 1966. An important element of this new legislation is that it is intended to domesticate the Convention on the Rights of the Child in relation to education. This Act firmly asserts a person's right to early childhood care and education and to basic and high school education. Under this piece of legislation, Government is obligated to make general and vocational education progressively available and accessible to all persons. This Act also recognises a child's right to free basic education. Free basic education has however already been implemented under the Free Basic Education Policy and this Act merely provides a firm legislative basis for implementation of the Policy.

C. Judicial measures

16. Article 28 of the Constitution provides that if any person alleges that any of the provisions of the Bill of Rights have been, is being or is likely to be contravened in relation to them, that person may apply for redress to the High Court. The Article empowers the High Court to hear and determine the application and to make such order, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of any of the provisions of the Bill of Rights.

17. On 5th August 2009, the Government of Zambia launched the Small Claims Court pursuant to the Small Claims Court Act Chapter 47 of the Laws of Zambia and the Small Claims Court Amendment Act No. 14 of 2008. These Courts are intended to expedite the disposal of cases involving small claims. They were made operational as part of measures put in place by the Zambia Government to speed up the dispensation of justice.

18. The Government of Zambia has embarked on nationwide training in human rights of Justices working in the local courts, This training has been undertaken by government and by civil society organizations.

D. Policy measures

1. National anti-corruption policy

19. Corruption has been and still is a significant impediment to good governance in Zambia. Since attaining independence in 1964, successive Governments have instituted legal, institutional, economic, and social reforms, which have largely aimed at enhancing good governance for improved public service delivery and contribution to economic and social development.

20. The Government recognizes that the increased prevalence of corruption has negative effects on the country's efforts to enhance socio-economic and political development. Corruption tends to limit citizens access to public goods and services and reduces freedom of political choice in elections. Corruption can also be linked to the escalation of poverty, as the prevalence of corrupt practices socially excludes the poor from freely accessing public goods and services

21. The launching of the National Capacity Building Programme for Good Governance in Zambia and the National Governance Baseline Survey Report in 2000 and 2004 respectively ultimately led to adoption of the Anti-Corruption Policy in August, 2009. This is a comprehensive policy on corruption in Zambia and provides a framework for developing means of preventing and combating corruption in a comprehensive, co-ordinated, inclusive and sustainable manner.

2. Decentralisation implementation plan

22. In 2009, Government launched the Decentralisation Implementation Plan (DIP) in line with its vision to achieve a fully decentralized system of government. The overall goal of the DIP is to implement and operationalise the National Decentralization Policy (NDP) which Government adopted in 2002. The Government of Zambia, through the NDP, is committed to assisting local authorities to increase their levels of accountability and transparency in the use of local resources. The Government has also embarked on the creation of districts to improve service delivery through decentralization.

3. Gender based violence

23. The Government of Zambia has put in place a National Action Plan on Gender based Violence. Additionally in May 2012, the Government launched the National Guidelines for the Multi-discipline Management of Survivors of Gender based Violence. The objective of these guidelines is to ensure that police, health, legal, judiciary and social welfare personnel work together in responding to and tracking all cases of Gender Based Violence.

E. National human rights infrastructure including national human rights institutions

24. Article 125 of the Constitution establishes an autonomous Human Rights Commission, a key partner in the promotion and protection of human rights. The functions of the Commission are set out in section 9 of the Human Rights Commission Act, Chapter 48 of the Laws of Zambia. The Human Rights Commission is empowered, on its own initiative or on receipt of a complaint, to, *inter alia*, investigate human rights violations, investigate any maladministration of justice and to propose effective measures to prevent human rights abuse.

25. The Human Rights Unit under the Ministry of Justice ensures that Zambia meets her international human rights obligations by working with other government ministries and departments in dealing with emerging human rights issues, including the preparation of state party reports and advising government ministries and departments on human rights matters.

26. In addition to the measures that are discussed above, the Zambian legal framework provides for the establishment of independent institutions that underpin Zambia's constitutional democracy. These include the:

- Electoral Commission of Zambia
- Police Public Complaints Authority
- Anti-Corruption Commission
- Commission for Investigations
- Victim Support Unit under the Zambia Police Service
- Judicial Complaints Authority
- Ministry of Gender and Child Development

27. These institutions are independent and subject only to the law and they must be impartial and must exercise their powers and perform their functions without fear, favour or prejudice.

F. Scope of international obligations identified in the basis for review

28. At international level, Zambia is a party to the Covenant on Civil and Political Rights, Covenant on Economic, Social and Cultural Rights, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Convention on the Elimination of Discrimination Against Women, Convention on the Rights of the Child, Convention on the Elimination of Racial Discrimination and the Convention on the Rights of Persons with Disabilities. At regional level, Zambia is a party to the SADC Protocol on Gender and Development, African Charter on Human and Peoples' Rights, African Charter on the Rights and Welfare of the Child and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. Government recognises the obligations that it has in ensuring that the rights that are elucidated in all the human right instruments that Zambia is a party to are enjoyed by people within the territory of Zambia through the enactment and implementation of relevant enabling legislation and programmes.

IV. Promotion and protection of human rights on the ground

A. Implementation of international human rights obligations identified in the basis of review

29. The implementation of international human rights obligations has continued with the adoption of legislation such as the Anti-gender Based Violence Act, Anti Human Trafficking Act and the incorporation of provisions of the Convention on the Rights of Persons with Disabilities in new legislation.

30. The negative impact of poverty and diseases such as HIV/AIDS are a serious challenge to the promotion and protection of human rights in Zambia. The long-term effects

of the high poverty levels and disease has been a marked increase in the occurrence of negative vices such as child-headed households and children living on the streets, which in most cases is as a result of the complete breakdown of extended family structures. To this end, the Government has implemented measures to ensure a gradual reduction in the levels of poverty and the HIV/AIDS prevalence rate. Government has put in place decisive and systematic measures aimed at implementing policies and programmes through the Ministry of Community Development, Mother and Child Health and the Ministry of Health, among others.

B. Voluntary commitments

31. During Zambia's review in 2008, an open invitation was extended to special mandate holders. Since 2008, three special mandate holders have undertaken missions to Zambia including the Independent Expert on the Question of Human Rights and Extreme Poverty; the Special Rapporteur on Violence against Women, its Causes and Consequences and the Special Rapporteur on Extra Judicial, Summary or Arbitrary Executions. Zambia will continue to cooperate with special mandate holders in the discharge of their functions.

C. National human rights institutions' activities

32. During the period under review, the Human Rights Commission has carried out a number of activities to fulfil its mandate to protect and promote human rights for all persons in Zambia. The activities were carried out in line with section 9 of the Human Rights Commission Act, Chapter 48 of the Laws of Zambia which mandates the Commission with the following functions:

- To Investigate human rights violations;
- To investigate any mal-administration of justice;
- To propose effective measures to prevent human rights abuse;
- To visit prisons and other places of detention and related facilities with a view to assessing and inspecting conditions of the persons held in such places and make recommendations to redress existing problems;
- To carry out a continuing programme of research, education, information and facilitate rehabilitation of victims of human rights abuse to enhance the request for and protection of human rights;
- To recommend actions to remedy or prevent human rights abuse;
- To carry out all such things as are incidental or conducive to the attainment of the functions of the Commission.

33. During the period under review, the Commission carried out research and advocacy work aimed at among other things, influencing policy and legislative reforms with regards to human rights protection in Zambia. The Commission conducted research and rendered recommendations for legislative, policy and practical reforms in various thematic areas including employment and labour, the national planning process, constitutionalism and human rights, housing, HIV and AIDS and the environment. This work has mostly been carried out through the compilation and production of an Annual State of Human Rights Report.

34. The Commission also conducted a review of Zambia's 1999–2009 National Plan of Action and working in collaboration with the Human Rights, Constitutionalism and

Democratisation Committee under the Governance Sector Advisory Group drafted a new National Plan of Action for Human Rights for the period 2010 to 2020.

35. In the area of human rights education and information, the Human Rights Commission conducted various training activities for various groups, including human rights education training for teachers with the Anti-Corruption Commission, capacity building and program design for community radio stations around the country in the production and broadcast of community based human rights interest stories, human rights training for police and prisons personnel, and human rights workshops in line with human rights and conflict prevention during elections. The Commission has also carried out media engagement and has maintained a website on which it shares human rights information. The Commission has used international and regional human rights days to highlight specific human rights issues.

36. During the period under review, the Commission also continued to receive and investigate complaints of allegations of human rights abuses. During this period the Commission received 622 complaints in 2008, 1093 in 2009, 1172 in 2010 and 1019 in 2011.

D. Public awareness of human rights

37. The Government of Zambia recognises the important obligation that it has in raising public awareness on human rights. To this end, Government has ensured that human rights education is introduced in the curriculum for primary education. Human rights training and awareness-raising has been a core element of Zambia's state party reporting process.

38. Zambia has a vibrant civil society as a result of the enabling environment that Government has created. Zambia's civil society has been actively involved in raising awareness on pertinent human rights issues, including the Universal Periodic Review process.

V. Identification of achievements, challenges and constraints in relation to the implementation of accepted recommendations

39. Since the last review and in accordance with Zambia's identified national priorities, government accelerated the implementation of existing legislation and programmes which have had a positive impact on the lives of Zambians, especially the rural communities.

A. Achievements

40. **Domestication of the Provisions of the CEDAW:** Since the last review, Zambia enacted the Anti-Gender Based Violence Act No. 1 of 2011 and conducted a legislative review on what provisions of the Convention on the Elimination of Women are incorporated in national legislation. The purpose of the exercise was to inform the domestication process of the CEDAW. With regard to gender based violence in particular, the Victim Support Unit of the Zambia Police Service has been expanded and can be found at all main police stations and at some community police posts. Officers have been receiving continuous training in gender studies, human rights and general counselling.

41. **Education and Skills Development:** Government recognises that education and skills development plays an important role in socio-economic development. It provides opportunities for growth, poverty reduction, employment, productivity and human development. Zambia's focus is expanding access to high school and tertiary education.

Government has also made further efforts to improve the quality of education at all levels so that appropriate skills, knowledge, attitudes and values required for social and economic development are imparted to learners.

B. Challenges

42. **HIV/AIDS Pandemic:** The HIV/AIDS epidemic presents major challenges to the reduction of poverty and to human development in Zambia. The Government of the Republic of Zambia recognises that HIV and AIDS have the capacity to negate efforts to promote human development and progress towards achieving the Millennium Development Goals.

43. Government has developed strategies that will be employed during the implementation period of Zambia's Sixth National Development Plan to reduce the key drivers of new infections such as high rates of multiple and concurrent partners, low and inconsistent use of condoms, low rates of male circumcision, mobility, vulnerable groups with high risk behaviours and Mother-To-Child-Transmission (MTCT). Some of the programmes and interventions include promoting prevention, intensifying and accelerating prevention of sexual transmissions of HIV in the family setting including MTCT, integrating prevention in all aspects of care at all health care settings and expanding and scaling-up access to and use of Voluntary Counselling and Testing (VCT) services. Government has also developed the National HIV/AIDS Strategic Framework which is aligned to the Sixth National Development Plan. As a result of the intensified prevention effort highlighted above, there has been a reduction of HIV prevalence from 16.1% in 2007 to 14.3% in 2009.

44. **Over-crowding in Correctional Facilities:** During Zambia's review in 2008, the Human Rights Council's attention was drawn to the fact that there was over-crowding in prisons. This problem continues to persist. The capacity of prisons is five-thousand five hundred (5,500) and the number of prisoners in custody is over sixteen thousand (16,000). However, since the review, measures have been put in place to reduce congestion in places of detention. These have included the construction of new prisons in Western, Northern and Eastern Provinces and the construction of magistrate and local courts countrywide. Another measure that has been introduced has been the creation of a national parole system whose main purpose is to decongest prisons which are over-crowded. Another positive development that has contributed to the improvement of prison facilities has been the establishment of health posts in prisons for prisoners to access health services including Anti-Retroviral Therapy (ART).

45. **Constraints to Implementation:** The implementation of human rights programmes in order to ensure that all Zambians enjoy their rights requires enhanced and effective coordination. Although the Ministry of Justice has the mandate to deal with Zambia's human rights policy, the actual implementation of human rights that are enshrined in the Constitution and treaties lies in the purview of several government departments and ministries in accordance with their legislative mandates. The government of the Republic of Zambia recognises that there is a lack of coordination among key institutions in implementing the concluding observations and recommendations of treaty bodies and recommendations of Special Procedures of the Human Rights Council, among others.

VI. Key national priorities, initiatives and commitments that the State intends to take to overcome the challenges

46. As stated earlier, the Zambian government has identified four core priorities in keeping with its electoral political mandate. These are education development, health services, agricultural development and housing development. These four sector programmes will be supported by other sectors such as infrastructure development and social protection.

47. **Education:** Currently, the education system requires extensive review in that primary and secondary education is characterised by low enrolment levels and poor education standards. Universities and colleges do not only have dilapidated infrastructure but suffer from chronic shortage of qualified staff. The reviewing and repealing of the old Education Act will result in an overhaul of Zambia's education system and contribute to making the education system relevant in the promotion and protection of the right to education.

48. **Health Care Services:** In terms of ensuring that health services are accessible to all the people of Zambia, Government has increased the budgetary allocation to the health sector in order to address human resource constraints, shortages of essential drugs and dilapidated infrastructure.

49. **Agricultural Development:** Zambia has an agricultural potential which, if fully exploited, can significantly contribute to employment and wealth creation and alleviate poverty. Government intends to tailor agricultural subsidies, market guarantees and extension services towards the production of specific crops in particular areas of the country.

50. **Housing:** In terms of housing, government will introduce a social housing scheme that will empower local authorities to construct low cost houses from government guaranteed loans.

51. The achievement of the above mentioned priorities will ultimately lead to the fulfilment and progressive realisation of human rights enshrined in the core human rights instruments that Zambia is a party to, including the rights to education, the right to health care, the right to food, the right to work and the right to adequate housing.

VII. Expectations for capacity-building and requests, if any, for technical assistance and support received

52. **Follow-up Mechanism:** As has been highlighted, the Government of Zambia faces challenges with respect to coordination among key institutions in implementing the concluding observations and recommendations of treaty bodies and recommendations of Special Procedures of the Human Rights Council. The Government of Zambia would benefit from capacity building in enhancing its ability to develop an effective follow up and coordination mechanism in the implementation of human rights.

53. **Development of Infrastructure:** Despite the strides made in addressing the challenges of overcrowding in prisons, there still remains a need for technical and financial assistance in the development of infrastructure such as courts and prisons.

54. **Human Trafficking:** The Republic of Zambia has been cited as a source and transit area for human trafficking. Although the Government of Zambia has sought to address human trafficking through, among other things, the enactment of the Anti Human Trafficking Act, there are still some challenges being faced. In this regard, the Government of Zambia would welcome support in dealing with this issue.