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UNIVERSAL PERIODIC REVIEW

Report of the Working Group on the Universal Periodic Review

Zambia *

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Introduction

1. The Working Group on the Universal Periodic Review, established in accordance with Human Rights Council resolution 5/1 of 18 June 2007, held its second session from 5 to 19 May 2008. The review of Zambia was held at the 9th meeting on 9 May 2008. The delegation of Zambia was headed by Mrs. Gertrude M.K. Imbwae, Permanent Secretary, Ministry of Justice of the Republic of Zambia. For the composition of the delegation, composed of 19 members, see annex below. At its 13th meeting held on 14 May 2008, the Working Group adopted the present report on Zambia.
2. On 28 February 2008, the Human Rights Council selected the following group of Rapporteurs (troika) to facilitate the review of Zambia: Senegal, Switzerland and the Philippines.
3. In accordance with paragraph 15 of the annex to resolution 5/1, the following documents were issued for the review of Zambia:
 - (a) A national report submitted in accordance with paragraph 15 (a) (A/HRC/WG.6/2/ZAB/1);
 - (b) A compilation prepared by the Office of the High Commissioner for Human Rights (OHCHR), in accordance with paragraph 15 (b) (A/HRC/WG.6/2/ZAB/2);
 - (c) A summary prepared by OHCHR, in accordance with paragraph 15 (c) (A/HRC/WG.6/2/ZAB/3).
4. A list of questions prepared in advance by Germany, the Netherlands, Denmark, Ireland, Latvia, Sweden and the United Kingdom of Great Britain and Northern Ireland and was transmitted to Zambia through the troika. These questions are available on the extranet of the UNIVERSAL PERIODIC REVIEW.

I. SUMMARY OF THE PROCEEDINGS OF THE REVIEW PROCESS

A. Presentation by the State under review

5. At the 9th meeting, on 9 May 2008, Mrs. Gertrude M.K. Imbwae, Permanent Secretary, Ministry of Justice and Head of Delegation of Zambia, presented the national report and indicated that it had been prepared by the Government through the Ministry of Justice. Broad national consultations were undertaken and inputs from stakeholders, including civil society, were incorporated into the draft report and thereafter validated through the same process. She indicated that Zambia took note of the Working Group's advance questions to the national report and responded to them. With regard to Denmark, Sweden and the United Kingdom's question on how the issue of the death penalty will be dealt with in the ongoing revision of the Constitution, she indicated that in the year 2002, a constitutional review commission was appointed to collect public opinion, inter alia, on the abolition or retention of capital punishment in Zambia's statutes. Its report and the draft constitution are currently being considered by the National Constitutional Conference (NCC) which was established in 2007. In response to a question by Denmark on gender-based violence bill, it was indicated that the Zambia Law Development Commission has been tasked with carrying out research and consultations on legislation pertaining to gender gender-based violence. The Commission has established a 15-member committee which consists of both Government and civil society organizations and is chaired by the Directorate of Public Prosecutions. According to the Commission's programme of activities, it is hoped that a bill will be in place by the end of

2008. She also stated that Zambia was in the process of preparing legislation against gender-based violence.

6. On concerns raised by Denmark on the high number of cases involving violence and in some cases torture by the police, it was stated that the Constitution of Zambia prohibits torture and other form of cruel and degrading treatment against any person. The Prisons Act Cap. 97 also make it an offence for any member of the Service to commit any act of violence against a prisoner. The Human Rights Commission also has unlimited access to prisons and it has investigated cases of violence against prisoners reported to it. She also reported that the police have started training officers in investigations and purchased investigations tools, for instance, forensic equipment like cameras and computers. Pursuant to an Amendment to the Zambia Police Act the Government set up the Police Public Complaints Authority (PPCA) as part of the remedial measures to mitigate, among others, acts of torture at the hands of the police. By August 2006 the PPCA had received and investigated 1,273 complaints of torture and abuse of authority leading to 14 officers being dismissed and disciplined.

7. In response to Ireland's question on women human rights defenders being subjected to stigmatization, discrimination and intimidation, Zambia stated that like all persons within the territory of the Republic, they enjoy the rights contained in part III (the Bill of Rights) of the Constitution, including the right to life, freedom from torture, freedom of assembly and association, freedom from discrimination, and liberty and security of persons. Article 28 of the Constitution further provides for remedies for individuals whose rights under the Bill of Rights are alleged to have been violated. On a question raised by Ireland in relation to libel and security laws, it was indicated that the country does not have nor does it intend to have laws targeted at intimidating journalists. It is the Government's desire to create a free and conducive environment for the media to operate in and also to ensure that individuals, including journalists, enjoy their constitutional freedom of expression. There have been a few instances where the Government had taken journalists to court or brought criminal charges of defamation against them, and individual Government officials have also used defamation laws to seek civil redress. Libel laws are necessary to ensure that the media enjoys their freedoms with responsibility, balance and fairness. As the Supreme Court ably put it in the case of *Sata v. Post Newspaper*, freedom of speech and press cannot be synonymous with the freedom to defame. However, she indicated that Zambia has noted that there are some laws that may need reform.

8. Defamation of the President is a criminal offence under Zambia's domestic laws and that this does not only apply to journalists and no deliberate steps have been taken hitherto to reform the Criminal Code with regard to the issue of defaming the President and publishing false news. In response to Ireland's question on measures aimed at improving overcrowding and the living conditions in prisons, Zambia is currently transferring prisoners from the most congested prisons to prisons with higher holding capacity and a prisons conditions' working group has just recently been established under the Access to Justice Programme. In response to Latvia's question on whether Zambia would consider extending a standing invitation to all special procedures of the Human Rights Council in the future, she indicated that Zambia, as a member of the Human Rights Council, will issue an open/standing invitation. On the question put by the United Kingdom on the role of civil society in the preparation of the national report, the national report was prepared through the Ministry of Justice which had appointed an inter-ministerial committee on human rights comprising relevant ministries and departments, the judiciary, and the Human Rights Commission to coordinate the preparation of the report. In response to the question by the United Kingdom on the steps Zambia is taking to incorporate the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), the International Covenant on Economic, Social and

Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) into domestic law, the Fifth National Development Plan for the period 2006-2010 prioritized the promotion and protection of human rights in the Governance Chapter. One of the activities that will be undertaken in order to achieve this objective is the domestication of international human rights treaty provisions, including of those four instruments, which are not already part of Zambian legislation. On the steps Zambia is taking to reduce the length of police custody and of pre-trial prison custody, it was reported that under the Access to Justice Programme, consultants were hired to develop a handbook on best practices and guidelines for the criminal justice system. The aim of the handbook is to improve case management by coming up with best practice guidelines for effective coordination, communication and cooperation amongst criminal justice institutions.

9. On measures that are being considered to help reduce the prison population, in particular in relation to judicial reforms, it was reported that the Criminal Code Amendment Act provides for community service as one of the penalties that can be meted out on a convicted person. However, in practice community service has been difficult to implement due to the lack of a clearly defined supervisory mechanism. The Act is currently being reviewed in order to provide for a supervisory mechanism for convicts sentenced to community service. Another measure that Zambia has put in place is the parole system. While parole has been provided for in the Prisons Amendment Act No.16 of 2004, it has not been put into practice due to certain mechanisms that have not been put in place. It is in line with this that a draft statutory instrument providing for such mechanisms, including the functions of a Parole Board that will oversee the implementation of parole, has been submitted to the Ministry of Justice for consideration and further action. In concluding, the Head of Delegation conveyed Zambia's commitment to the promotion and protection of human rights and to cooperate with the Universal Periodic Review mechanism both during and after the review.

B. Interactive dialogue and responses by the State under review

10. During the ensuing interactive dialogue, 39 delegations made statements, praising Zambia for its high-level representation as well as the quality of their presentation and their national report.

11. Algeria commended Zambia for the recent establishment of the National Human Rights Institution in accordance with the Paris Principles. It welcomed Zambia's efforts to strengthen its national machinery on gender mainstreaming and recommended to Zambia to strengthen its efforts on gender issues. It commended Zambia on the continuing efforts to ensure the right to education, in particular in view of the increase of girls and recommended that Zambia continue its efforts to improve its educational system and seek international assistance in this regard. It also recommended that Zambia continue improving the living conditions of detainees.

12. China noted Zambia's human rights legislation and human rights institutions. It noted Zambia's considerable efforts in ensuring the right to life, and in improving the access to housing, education and other economic, social and cultural rights. China asked for information about the Ministry for the Integration of Women in Development and new measures Zambia intended to take to improve the observance of women's human rights.

13. Latvia noted with appreciation Zambia's efforts in gender mainstreaming and on the adoption of several policies and programme to promote the rights and full equality of women, including in the areas of reproductive health and the legal and social protection of children and women. It noted as well the high degree of freedom of expression enjoyed in the country, which plays a significant role in the promotion of human rights. It also noted with great satisfaction Zambia's decision to issue a standing invitation to all special procedures, and called upon other countries to follow this example.

14. Brazil noted that the national report highlighted examples of progress made and of obstacles to improving the human rights situation. It commended Zambia on the establishment of several human rights institutions and noted that despite the numerous positive measures adopted, violence against women continues to be a serious problem, as referred to by treaty bodies. It asked what programmes and practical measures are taken to prevent gender-based violence and what legal reforms have been undertaken to strengthen the laws against violence and discrimination against women. Brazil recommended to Zambia to consider adhering to the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

15. The Russian Federation asked whether members of all 72 official tribes in Zambia had equal access to participating in State elections and receiving education, and whether tribal languages were also taught in schools. It also cited problems related to the prison system - overcrowding, poor nutrition, lack of appropriate medical care, unsanitary conditions and lack of a proper water supply, and asked what was being done to improve the situation. It asked how the Government was tackling the high levels of maternal mortality, malaria and HIV/AIDS. It further asked whether Zambia had sought technical cooperation to improve the situation with respect to its treaty reporting obligations.

16. Austria commended Zambia on the consultative process in the drafting of the report. On the issue of eliminating discrimination against women, concerns were expressed by the treaty bodies that article 23 of the Constitution provided for exclusions and exceptions to the prohibition against discrimination, including in matters concerning civil and customary law. Austria recommended that the prohibition of discrimination be strengthened in the context of the current constitutional-review and that specific legislation be adopted to ensure the full implementation of CEDAW. Austria asked about the status of compliance with the Convention on the Rights of the Child (CRC) in particular with regard to the obligation to register children immediately after birth, the protection from all of physical or mental violence, injury or abuse, and the implementation of a juvenile justice system. Austria recommended that juvenile courts and justices be established to enhance access to justice of children in conformity with their specific needs.

17. The Democratic Republic of the Congo noted with satisfaction that Zambia is a party to many international human rights treaties, and that the Constitution guarantees the protection of fundamental freedoms. It expressed admiration regarding the fact that Zambia constitutes a peaceful multiracial, multiethnic and multicultural State. It also expressed its support to Zambia's reform efforts and asked Zambia about measures to improve access to water by the population. It recommended that international treaties adhered to by Zambia enjoy full implementation and that their incorporation in domestic law be accelerated.

18. Slovenia commended Zambia on its commitment to improving human rights of its citizens. It raised concern that there was no law prohibiting discrimination against people with disabilities and asked if the Government envisaged adopting anti-discrimination legislation in that regard. It also noted that the Constitution and laws carry union rights but noted that non-unionised workers do not enjoy protection under law. It recommended to interpret statutory law and to set enforcement mechanisms in a way that protects unionised and non-unionised workers equally and without discrimination. Slovenia also asked what Zambia had done to integrate a gender perspective in the consultations and national report for its Universal Periodic Review and what was planned for the next stages, including the outcome of the review. It recommended that Zambia systematically and continuously integrate a gender perspective in the follow-up process to the review.

19. Canada noted that Zambia represents a multiparty democracy which ensures the full enjoyment of human rights and welcomed its announcement to issue a standing invitation to all

special procedures. It referred to the Human Rights Committee's concern about the lack of clarity of the legal provisions governing the state of emergency. It also referred to the Human Rights Committee's concerns that the Criminal Code criminalizes consensual same-sex activity and (a) recommended that it be amended to decriminalize same-sex activity between consenting adults and that (b) Zambia develop programmes to respond to the HIV/AIDS related needs of sexually active gay men. Canada further (c) recommended to improve access to antiretroviral treatment for vulnerable groups, including women. Canada commended Zambia on the adoption of a National Gender Policy in 2000 and the launch of a Strategic Plan of Action on Gender 2004. It also referred to concerns by the Committee on Economic, Social and Cultural Rights (CESCR) about traditional practices and (d) recommended that Zambia take measures to improve the situation of widows and girl orphans, including by ensuring protection of inheritance through the enforcement of legislative provisions. Canada further (e) recommended that the provisions on equality before the law regardless of sex, and provisions in the draft constitution prohibiting any law, culture, custom, or tradition that undermine the dignity, welfare, interests, or status of women or men as proposed in articles 38-40, are retained in the draft constitution currently under consideration.

20. The delegation of Zambia responded to the questions raised, in particular on the question on sanitation facilities in schools, it referred to the existent water supply and sanitation facilities and programmes promoting new facilities related to hygiene in all schools. On the question on article 23 of the Constitution, the issue is currently being examined by the NCC. The draft constitution, which is before the NCC, has progressive provisions regarding the issue of discrimination on the grounds of personal and customary law. Regarding education, the delegation stated that in addition to English, seven local languages are taught in schools from grades 1 to 12, and explained that whereas private schools use English as language of instruction and no laws compel them to use the local languages. Regarding the question on health and maternal mortality rate, it recalled Zambia's commitment to the attainment of the MDGs and that it has pledged to reduce maternal mortality by three quarters by 2015. The national health strategic plan's objective is to increase access to integrated reproductive health and family planning services, and several strategies have been formulated to reduce the maternal mortality rate. On questions regarding gender-based violence and prison conditions, the delegation referred to its previous statement.

21. France noted the dynamic nature of the Human Rights Commission and recommended that Zambia strengthen this with a status in accordance with the Paris Principles, particularly with respect to human resources and independence. It noted that the President of Zambia announced his opposition to the death penalty and that a de facto moratorium had been introduced, and asked whether Zambia intended to formally abolish the death penalty or, if not, to transform de facto moratorium into a de jure moratorium. France also asked, if the National Constitutional Conference would propose to write down the abolition of the death penalty in the new Constitution, whether the Zambian Government would give effect to such a proposal. Noting that Zambia has denounced violence against women and expressed its intention to combat it by strengthening its legislative framework, it asked for further information on present and future measures in that regard, as well as about measures taken to combat child labour.

22. The Netherlands appreciated Zambia's openness in reporting problems it faces with regard to economic and social rights. It welcomed the de facto moratorium and called on the Government to permanently abolish the death penalty. It asked if Zambia intended to sign the Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty, commended it on the ratification of many international conventions and its pledges to incorporate their provisions into domestic law. It (a) recommended that Zambia report to the Human Rights Council about further concrete steps that will be taken to incorporate the ratified international conventions in domestic law. It noted the Human Rights Committee's concern about the criminalization of consensual same-sex activity and

(b) recommended that Zambia strive to amend its Criminal Code to decriminalize same-sex activity between consenting adults in accordance with the recommendation of the Human Rights Committee. It also noted concerns by the Committee on the Rights of the Child on the number of children living and working on the street, particularly their exposure to physical and sexual abuse, prostitution and HIV/AIDS and (c) recommended that a strategy be developed for the prevention and assistance to children living and working on the street in order to protect and guarantee their rights, involving community-based associations and other civil society organizations.

23. Mexico acknowledged the progress made by Zambia, that it has ratified most of international human rights treaties, and noted the establishment of various human rights institutions, programmes and policies. It also recognized the challenges Zambia is still facing. It welcomed the announcement to issue a standing invitation to all special procedures, noted with great satisfaction that the death penalty has not been applied and suggested to declare a moratorium on death penalty. It commended Zambia on its efforts to harmonize its legislation and its customary practices with its international human rights obligations. As 90 per cent of the sentences in the country are handed down by local courts governed by customary law, it recommended to train in human rights judges working in the local courts, administering Zambian customary law, in particular, in respect to the human rights of women and children and a gender perspective and to promote a flexible and effective system of reviewing sentences, so as to guarantee the due process of law. It also recommended that Zambia consider ratifying the Convention on the Rights of Persons with Disabilities and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

24. Ghana noted with appreciation that the national report of Zambia was prepared through a very participatory and inclusive approach. It commended Zambia on several initiatives, including the establishment of institutions to promote and protect human rights and the incorporation of human rights education in the training curricula of law enforcement personnel and recruits. It requested more information on how the authorities ensure the development and efficiency of the Access to Justice Programme, and how it is addressing the shortage of professional magistrates in the judiciary.

25. Egypt noted that Zambia was one of the leading African countries in the promotion of democracy, political participation and human rights for all. It sought more information on the multi-party system in Zambia and asked what advice it had for other countries in Africa struggling to overcome problems in these areas and in their political development.

26. Chile commended Zambia on its efforts in the promotion and protection of human rights. With respect to the issue of death penalty, it recommended that the de facto moratorium on death penalty in place since 1997 be transformed into a de jure moratorium with a view to reach a total prohibition. It noted that under the law, a person may be deprived of liberty when suffering from mental illness, is addicted to drugs or alcohol, or is a vagrant; and asked what safeguards exist to avoid abuse of this legislation. It also noted in the national report that between 2004 and 2006 urban poverty has declined whereas rural poverty has increased, and asked what measures are taken or are planned to deal with this phenomenon. As concerns discrimination against women, it appreciated measures adopted to improve the situation of women and asked whether an evaluation of the strategic action plan on gender had been made.

27. Chad highlighted major achievements of Zambia in the field of human rights. It noted the high priority given to health, education, water provision, social security and environmental and other rights in the Fifth National Development Plan. It welcomed the protection of economic, social and cultural rights and stated that economic growth would further improve access to rights by

improving the situation of the poor. It also noted that press freedom was being strengthened and a centre for rehabilitation of victims of human rights violations had been established. It asked what was being done to address customary law and traditional practices, particularly dowry, the place of women in society and polygamy, which are in opposition with human rights, and to ensure access to courts

28. Denmark commended Zambia on its efforts to involve civil society in the preparation of the national report. It noted the establishment of the Police Public Complaint Authority (PPCA) but expressed concern about the high number of cases of ill-treatment by the police and in some cases, of torture, and asked about measures in that regard. Denmark recommended that all possible measures be taken to eliminate torture and other inhuman or degrading treatment or punishment, including that all mechanisms such as the PPCA and Victim Support Unit are fully implemented. It also recommended that Zambia ensure that every case of torture or ill-treatment by police officers is seriously investigated, prosecuted and punished and that adequate reparation is granted to victims.

29. Germany commended Zambia on its pledge to extend a standing invitation to special procedures mandate holders. It noted that Zambia was not party to the Second Optional Protocol to ICCPR, and the optional protocols to CEDAW, CAT and the CRC, and asked when Zambia intends to sign and ratify them and what concrete measures would be taken to better incorporate the provisions of those conventions into domestic legislation. Referring to CESCR concerns about the negative impact of extreme poverty on the enjoyment of economic, social and cultural rights, especially by the most disadvantaged groups such as girl children and those affected by HIV, it asked what measures were planned to improve the situation of these groups.

30. Tunisia commended Zambia's commitments to the promotion and protection of human rights, and noted that despite a very difficult international situation and economic and social problems, it continues to make major efforts to ensure that its people can enjoy human rights in the best possible conditions. Noting the challenges faced by Zambia on the issue of access to drinking water, it welcomed efforts to ensure clean drinking water and an equitable distribution of it to its people, including in rural areas, which deserve encouragements by the international community. It requested further details on private public partnerships in the promotion of clean and drinking water.

31. The United Kingdom congratulated Zambia on the broad consultations with civil society in the preparation of the national report, and noted its strong commitment to human rights and congratulated on the progress made. On the abolition of the death penalty, it welcomed the NCC debate on this issue and recommended that Zambia take further steps in relation to the abolition of the death penalty. It noted that overcrowding and poor conditions in prisons and other places of detention still remain a challenge. It welcomed progress in improving access to justice and noted its increased investment in prison infrastructure and its efforts to reduce the length of pre-trial detention. It recommended that Zambia sign the Optional Protocol to the Convention against Torture at the earliest possible opportunity. It further stated that Zambia has demonstrated its commitment to creating a conducive environment for the media to operate freely with a pledge to implement a Freedom of Information Act in 2008. In order to further encourage the desired environment, the United Kingdom encouraged the reform of the Criminal Code in relation to the prosecution of journalists. It further recognized the important role of local courts in processing civil and minor criminal cases, thus relieving pressure from a heavily overburdened judiciary. However, it recommended that further measures be put in place to ensure that the cultural and traditional beliefs practiced in customary law applied by the local courts do not lead to discrimination against women. It also noted that the establishment of the Human Rights Commission in 1996 and the

Police Public Complaints Authority in 2002. It urged the Government to continue to improve their capacity and to provide them with adequate resources to carry out their important functions.

32. Cuba expressed admiration for Zambia's progress in economic and social rights, particularly in education and health, adding that being a developing country with financial and material difficulties has not been an obstacle to Zambia's decisive protection of the human rights of its people. It congratulated the Government's determination and efforts to attain the MDGs, its good legal framework and human rights institutions, and its progress in enrolling girls in schools. It asked what measures and actions Zambia had taken to achieve these results as a useful guide for other countries facing disparities in gender in the education system. It recommended that Zambia continue its efforts in economic, social and cultural rights to further build upon the progress it has already made. It also recommended that Zambia share its experiences and good practices, which have enabled them to obtain significant results in the field of education, particularly in the access of girls to education and training.

33. Malaysia recognized the progress in the promotion and protection of human rights despite the challenges and constraints faced. It commended Zambia on the policy measures made to advance the right to health in the Fifth National Development Plan 2006-2010 and Vision 2030. It requested information on the efforts to address the high level of maternal mortality and child mortality. It also noted the policy direction of the Government to provide education for all by 2015. The substantive increase in the enrolment at public universities in 2005 reflects the emphasis on education, and in this regard, it asked about efforts made or planned by the Government to achieve its objective to provide free and compulsory basic education by 2015.

34. Italy referred to the concern of the Human Rights Committee and the Committee on Economic, Social and Cultural Rights about the persistence of customary practices which lead to violations of women's rights. It recommended that Zambia take all appropriate measures to improve the situation of women's rights on the ground and retain in the draft constitution currently under discussion both the provision on equality before the law regardless of sex and the provision prohibiting any law, culture, custom or tradition that undermines the dignity, welfare, interests or status of women. It also recommended that Zambia develop a national strategy for human rights education in the school system in accordance with the Plan of Action 2005-2009 of the World Programme for Human Rights Education, including the review and revision of curricula and textbooks, the training of teachers, and the practice of human rights in the school community.

35. Norway praised Zambia for its active and constructive engagement with the Council. It noted that while there are many media outlets in Zambia, few engage in political reporting or analysis, even though Zambia deems itself a multi-party democracy. The so-called Defamation Act, prohibiting defamation of the Head of State and carrying a sanction of three years' imprisonment, was said to contribute to this situation as it was often interpreted to apply to the Government in general. It asked if Zambia has taken or will take steps to change the Defamation Act in the Penal Code in order to broaden the space for exercising the freedom of expression and recommended that Zambia consider taking such steps. It noted that a process to adopt a new bill on freedom of information had been stalled for more than two years and asked why the adoption was not moving forward and at the same time recommended swift adoption of the bill on freedom of information. While Zambia enjoys an active civil society, strict regulations in the proposed NGO Bill, such as a registration procedure which allows extended control by the Government, were issues of concern. Norway asked about the current status of this proposed bill.

36. The delegation of Zambia responded to the questions raised, in particular on the issue of the death penalty and same-sex relationships, and stated that the laws in any country are reflections of

its socio-economic development. It noted that the issue of the death penalty has been referred to the NCC for deliberation and requires a referendum in any case. The question of the state of emergency is also a constitutional issue, which means that possible amendments to the law depend on the outcome of the NCC and can therefore not be identified at this point. On the issue of access to justice, the delegation stated that the programme in place focuses on criminal justice, but that the Government intends to extend it in the future to other areas, such as civil and administrative justice. The decentralization of the legal aid board is one of the initiatives already taken; lawyers have been recruited and are being posted in the nine provinces. So-called justice houses, where the legal aid board and the DPP will be present, will be constructed in five provinces. The delegation also referred to the training of local court justices, in particular relating to human rights of women. Through these trainings, Zambia hopes that local justices will be educated to deal adequately with laws relating to justice for women and children. In addition, local courts and some of the Magistrates Courts are being rehabilitated to ensure easy access to justice. The delegation also mentioned a programme to deal with the rehabilitation of prisons; a number of prisons have been identified, as already stated, and several donors are willing to support the programme. The delegation indicated that some prisons have already been rehabilitated. Offices of the victims' support unit, one of the departments benefiting from the Access to Justice Programme and dealing mainly with gender based violence cases, have also been rehabilitated so that officers can have a conducive working environment.

37. On the PPCA and concerns voiced by Denmark, the delegation explained that the PPCA does not prosecute but makes recommendations to the police itself as well as to prison and police authorities, which take the matter before the courts of law in case of a criminal nature. As previously mentioned, at least 14 police officers have already been dismissed. On the question as to whether they are discriminating, the delegation stated that the customary laws are currently uncodified and administered by local courts in civil matters, with the possibility of appeal to the Magistrates Courts, the High Court and the Supreme Court. The 72 tribes in Zambia have their own customary laws, some of which are similar, but most of them are different. A study has been undertaken to identify similar customary laws for the purpose of codification in order to have, at least, written guidelines to which the local court justices can refer. The delegation also noted that harmful customary laws have been identified and outlawed through amendments to the Criminal Code, and that those violating these laws are being prosecuted. The delegation mentioned that polygamy is allowed under customary laws, that according to a survey some people were against it and others in favour, and that not all tribes practice polygamy.

38. As regards the Freedom of Expression Bill, the delegation stated that it had been deferred, but that recent announcements by the Ministers on Public Information indicate that the bill will be taken back to Parliament. Regarding the NGO Bill, the Government did what was necessary; a consultation process was under way. NGOs wanted to come back to the Government on several issues, and the bill should be presented to Parliament. On the question from China on measures taken to improve women's rights, the delegation stated that, as a basic measure, sensitization campaigns in the provinces are being carried out to that effect. In addition, in 2000, the national policy on gender was developed, which outlines a number of items linked to rights of women. Zambia also intends to domesticate CEDAW, and legislation is currently being developed which will be specific to gender based violence. The Government, together with cooperating partners, has developed a joint gender support programme to expedite gender issues and to ensure that sufferings of women are alleviated quickly. On the question from France on child labour, the delegation stated that Zambia has ratified ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour and that the Government revised the Employment of Young Persons and Children Act in order to ensure full implementation of the Convention. Through programmes sponsored by the ILO, measures are being taken to eradicate

child labour, and the Government is currently considering a draft document on child labour. In terms of institutions, a child labour unit has been set up within the Ministry of Labour, which monitors issues regarding child labour and a national steering committee has been established, which is comprised of ministries, NGOs and other stakeholders that have child welfare/labour-related programmes. The delegation underlined the importance of developing a multi-faceted approach, which requires concerted efforts of all stakeholders, and stated that child labour committees are being created that carry out awareness programmes.

39. On the need for technical support for State reporting obligations, the delegation stated that Zambia is one of those countries in the region which are almost up to date with all State reports. Local capacity has been created to deal with these obligations, and the Government intends to update all reports. On the Human Rights Commission and its mandate, the delegation stated that like any other granted institution, it has its autonomy. However, it relies on finances from the treasury, which has limited resources. Like any body relying on Government funds, 100 per cent funding cannot be provided.

40. New Zealand welcomed the efforts made by Zambia in improving the rights of its citizens and in engaging constructively with civil society and the international community to address human rights issue in a transparent and genuinely democratic manner. It welcomed the announcement that Zambia will issue a standing invitation to all special procedures. It noted the challenges faced by Zambia in health services and also noted the high level of mortality rate due to a high percentage of unskilled home deliveries and limited access to facilities. It however noted that the infant and child mortality has declined. It welcomed the positive steps taken to address maternal neo-natal and child health and would welcome any information on current levels of engagement with practitioners at the community level who are involved in the development of national strategies to improve health standard in these areas. It also indicated that if it is not happening yet, it recommended that Zambia consider developing a strategy that ensures that the experiences of community practitioners are taken into account in the development of its national strategies to improve health standards in these areas.

41. Ireland welcomed the announcement that Zambia will be issuing a standing invitation to all special procedures. It welcomed the ongoing efforts of Zambia to improve prison conditions and recommended that Zambia continue to prioritize the improvement of the conditions of detention. It welcomed the information received concerning freedom of expression and recommended Zambia continue the reform of the Criminal Code in relation to the prosecution of journalists. Regarding the issue of decriminalization of same sex relationships between consenting adults, it thanked the information provided by the Zambian delegation and stated that criminalization leads to unnecessary suffering of men and women and respectfully asked Zambia to keep an open mind with regard to it.

42. The Syrian Arab Republic welcomed the Government's efforts to respect its human rights obligations, its national plan of work to implement treaty body recommendations, national education services to increase the number of girls receiving education, and its efforts to combat hunger, poverty and corruption. It noted that Zambia was among the foremost African States and 30th in the world in the fight against corruption, according to a report of Transparency International in 2004. HIV/AIDS was cited as one of the main challenges for the country and the Syrian Arab Republic appealed to states to strengthen development assistance to Zambia in this regard. It asked what measures were being adopted by Zambia to raise awareness among population of the dangers of AIDS and what measures were implemented for people affected by it. It also asked what negative consequences had emerged from TRIPS agreements at the international level.

43. Morocco commended the inclusive approach undertaken by Zambia in the preparation of the national report and commended it on the continuous commitments and improvements demonstrated in the field of human rights despite the difficulties and objective obstacles that it is facing. It commended it on the large number of achievements in the area of health and housing as well as the establishment of commissions to apply programmes and the adoption of a law to fight against corruption. It asked about further measures in the area of legislation to combat discrimination against women and strengthening training and education of women on human rights subjects.

44. Botswana congratulated Zambia for its open and inclusive manner employed in the preparation of its national report. It commended it on the establishment of national human rights institutions, including the Human Rights Commission, the Commission for Investigations, the Police Public Complaint Authority and existing processes aimed at enhancing access to justice institutions for the poor and vulnerable. It also noted Zambia's efforts to incorporate human rights training in the curricula of law enforcement personnel and recruits. It further noted Zambia's robust civil society, including the church and the media which were historically significant in helping raise awareness of democracy and human rights situations. It also noted Zambia's impressive record of ratification of regional and international human rights instruments.

45. Azerbaijan appreciated the willingness of Zambia to comply with its human rights obligations, through the establishment of the Human Rights Commission and the Investigator General and through its efforts in combating trafficking in persons. It commended Zambia on methods of eradicating extreme poverty and the measures taken in the area of education, adequate housing, health, employment and in women's rights. It asked how the Human Rights Commission would be strengthened, and if treaty body recommendations to amend article 23 of the Constitution would be implemented during the ongoing process of renewal of the Constitution.

46. The Libyan Arab Jamahiriya commended Zambia on the legislative reforms to ensure the protection of the rights of the child and the additional resources allocated by Zambia thereto and the adoption of a national plan for children. It recommended that Zambia continue its efforts to strengthen the rights of the child and protect them even further; in particular, the necessary resources should be earmarked so as to protect the weakest segments of the population, above all disabled persons, and assistance should be requested from UNICEF in that regard.

47. The United States of America stated that it was impressed by Zambia's commitment to good governance and to improving the opportunities available to the Zambian people. It commended Zambia on efforts to focus more on anti-corruption measures within the past couple of years. While progress had been achieved, it stated that there still is a need for more legislative and institutional reforms. It asked about the anti-corruption initiatives planned in the country. In referring to trafficking in persons as a serious issue in Zambia, it asked what steps are taken by the authorities to bring traffickers to justice.

48. The Republic of Korea mentioned the Human Rights Commission and efforts to improve human rights education as clear examples of significant improvements in Zambia. It asked whether steps had been taken to increase awareness of the right to appeal before statutory courts. It also cited the concern of the Committee on the Rights of the Child that Zambia lacks juvenile courts and juvenile judges and asked what measures had been taken to guarantee special protection of juveniles.

49. Slovakia enquired about the freedom of association and referred to the Constitution and the national legislation in that regard. It noted that the number of registered association is impressive. However, it noted some restrictions to form trade unions and to register, as it was reported by an

association which fights against discrimination based on sexual orientation or gender identity. On these two issues, it asked for clarifications.

50. Nigeria welcomed that Zambia was party to some major United Nations and regional human rights instruments and was encouraged by the establishment of the Police Public Complaints Authority, which addresses public complaints against police misconduct. Nigeria recognized challenges faced in the housing sector and encouraged Zambian authorities to continue constructing adequate houses for people under the housing development programme. It also asked whether congestion in prisons, a problem that is common in most developing countries, was a result of inmates awaiting trial or a high rate of conviction.

51. Angola commended Zambia on the constructive approach to drafting its report as well as the progress made in the field of human rights. It welcomed the citizens' access to basic rights and freedoms. It also acknowledged and thanked Zambia for having hosted refugees from Angola and its efforts to ensure the respect of the rights of refugees. It also noted that treaty bodies have made comments and recommendations with a view to improving certain aspects of the human rights situation and Angola believes that Zambia should take those recommendations into consideration as it will help to improve the human rights situation in the country. It also noted with great interest the efforts made by Zambia to improve the living condition of its people and asked about measures taken to ensure the legal protection of women and children.

52. South Africa commended on the progress made thus far in the area of empowerment of women and it encouraged Zambia to further intensify these efforts. It requested information on the programmes in place including the progress achieved in relation to ensuring that the right of access to drinking water and sanitation. It further requested Zambia to share information on measures that are in place to ensure that traditional practices are not in contravention of international human rights norms and standards. It noted that illiteracy still poses a great challenge and asked what programmes are in place to ensure that the Government deals with these challenges in an effective manner and about the successes of such interventions. It referred to the issue of corruption and its negative impact on the enjoyment of economic, social and cultural rights and recommended that Zambia accelerate its efforts to finalize the national anti-corruption policy and mechanisms for monitoring its implementation.

53. The Holy See appreciated Zambia's consideration of input from civil society stakeholders in its report. It noted with satisfaction Zambia's policies on the right to life, which starts at conception, and is interpreted broadly referring to environmental protection, public health and nutrition as well. It noted that the death penalty is legal in Zambia but executions have not been carried out since 1997 and encouraged Zambia to continue on this road and arrive at a complete abolition of the death penalty.

54. Bangladesh commended Zambia on having undertaken a broad consultation with all stakeholders for the drafting of their national report. While noting the difficult socio-economic conditions, it noted that Zambia has made serious stride in improving the human rights protection through a variety of institutional, legal and administrative measures. It also noted with interest the progress made in gender mainstreaming and the increase participation of women at the highest policy level both elected positions and public services. It also noted with appreciation Zambia's initiatives for the advancement of girl education. It also noted the frankness with which Zambia identified the shortcomings faced by developing countries such as in the field of economic, social and cultural rights which are also due to resources constraints. It noted that Zambia is doing its utmost, and certainly needs international support, to fully and successfully overcome those

shortcomings. It asked about the expectations of Zambia from the international community to complement national efforts to promote and protect human rights.

55. The delegation of Zambia responded to the questions raised. In particular on awareness measures related to HIV/AIDS, it stated that many measures have been taken, including trainings for public officers. To combat discrimination against women, consultations have been undertaken to develop legislation on gender-based violence. A first meeting with traditional leaders, who are critical in this process, took place to collect recommendations from them. Concerning the rights of the child, a child law reform secretariat within the Ministry of Community Development has been set up with the purpose of reviewing all child-related legislation to bring it into conformity with CRC and the African Charter on the Rights of the Child. The legal reform involves other line ministries, United Nations agencies as well as NGOs. Furthermore, a legislative audit has been completed and a National Plan of Action for Children on the Street has been developed to sensitize all stakeholders working in this area. Regarding Nigeria's question as to whether prison congestion is a result of convictions, the delegation stated that there are several reasons, one of them being that prisons date from the colonial times and therefore lack capacity. Moreover, for a long time, the human resources necessary to deal with cases were not available, in particular due to understaffing of lawyers in the DPP and the legal aid board, which is being dealt with through decentralization. Also, the coordination between the justice institutions is being improved through the Access to Justice Programme, which also reduces prison congestions.

56. On South Africa's question on the right to safe water, the delegation referred to its previous statement. On the issue of illiteracy, the delegation informed that an inter-ministerial committee is looking into this issue. Regarding the questions from New Zealand and Malaysia regarding maternal mortality and HIV/AIDS, the delegation reiterated its goal to reduce maternal mortality by three quarters by 2015. Strategies include strengthening the quality of post-natal services and family planning services with a special focus on rural districts. Many nursing schools have been opened to enhance the availability of human resources, especially of midwives. Appropriate training tools have been developed and improved self-motherhood services are being advocated for. Regarding child mortality, the Government supports a countrywide child health programme. On the question from the United States of America regarding human trafficking, the delegation stated that the offence of trafficking was criminalized through the amendments to the Criminal Code in 2005, and that the Government is currently working on a comprehensive human trafficking legislation and policy. Regarding discrimination against people with disabilities, the delegation noted that a disability policy is in place, which looks at all forms of discrimination against people with disabilities. On the question as to how the Human Rights Commission could be strengthened, the delegation highlighted the connection to economic development and to the fact that all areas of economy must be developed, so that the Commission and other institutions can access adequate funding. Finally, the delegation stated that it took note of the recommendations made by the delegations during the interactive dialogue, for instance those on the ratification of treaties to which Zambia is not a party to, and that it will convey the message to the necessary authorities so that the consultative process to ratify these treaties can be initiated. Regarding the implementation in the current NCC proceedings of international instruments to which Zambia is a party, the delegation explained that one committee of the NCC, chaired by the director of the Human Rights Commission, deals with human rights issues.

57. At the 13th meeting, held on 14 May 2008, during the adoption of the report, Mrs. Imbwae, Permanent Secretary, Ministry of Justice of Zambia, indicated Zambia's confidence that the structure of the Universal Periodic Review will contribute to improving the situation of human rights in Zambia and indicated that it will continue to engage with all stakeholders in the follow-up to the Universal Periodic Review. Despite challenges, Zambia committed itself to working towards

the observance of all its regional and international human rights obligations, and it took note of all comments, observations and recommendations made during the review process. She commented on the issue of registration of unions, and noted that section 5 of the Industrial and Labour Relations Act, Chapter 269, of the Laws of Zambia entrenches the fundamental provisions of ILO Convention No. 89 on freedom of association and protection of the right to organize. Under this provision workers have the right to belong to a union of their choice without prior authorization or indeed other legal requirements. As to all 73 tribes in Zambia, the Constitution prohibits discrimination on any grounds including tribes. In order to improve sanitation and access to safe drinking water, Zambia has put in place programmes to operationalize water sector policies to promote sustainable water resource development and ensure equitable provision of adequate quality of water to all users. Zambia will implement programmes that aim at providing adequate, safe, cost effective water supply and sanitation services to more people in urban and peri-urban areas, up to 80 per cent of the population by 2015. In terms of measures to address extreme poverty and its impact on the enjoyment of economic, social and cultural rights by vulnerable groups such as girl children and those affected by HIV/AIDS, these matters are being addressed under various programme of the Fifth National Development Plan. With regard to the issue of inadequate number of professional magistrates, measures in place to address the matter include, sponsoring law graduates to the Zambia Institute of Advanced Legal Education (ZIALE) for their bar examination to enable them enter the judiciary as professional magistrates; sponsoring serving lay magistrates to university and later to ZIALE; and improving conditions of service in order to attract advocates to join the bench. In terms of juvenile justice, most cases are heard before a magistrate camera and some magistrates are now specialized in dealing with matters involving juveniles. The Juvenile Act, Chapter 59 of the Law of Zambia provides protection for children in conflict with the law and creates special conditions for the treatment of children in conflict with the law. In conclusion, the Permanent Secretary reiterated Zambia's commitment to the promotion and protection of human rights and also its commitment to cooperate with the Universal Periodic Review mechanism both during and after the review.

II. CONCLUSIONS AND/OR RECOMMENDATIONS

58. The recommendations formulated during the interactive dialogue have been examined by the Republic of Zambia and the recommendations listed below enjoy the support of Zambia:

- 1. That further measures be put in place to ensure that the cultural and traditional beliefs practiced in customary law applied by the Local Courts do not lead to discrimination against women (United Kingdom);**
- 2. To strengthen its efforts on gender issues (Algeria);**
- 3. To systematically and continuously integrate a gender perspective in the follow-up process to the review (Slovenia);**
- 4. To take measures to improve the situation of widows and girl orphans, including by ensuring protection of inheritance through enforcement of legislative provisions (Canada);**
- 5. To train in human rights judges working in the local courts, administering Zambian customary law, in particular, in respect to the human rights of women and children and a gender perspective and to promote a flexible and effective system of reviewing sentences, so as to guarantee the due process of law (Mexico);**

6. **That all possible measures be taken to eliminate torture and other inhuman or degrading treatment or punishment, including that all mechanisms such as the PPCA and Victim Support Unit are fully implemented (Denmark);**
7. **To ensure that each case of torture or ill-treatment by police officers is seriously investigated, prosecuted and punished and that adequate reparation should be granted to victims (Denmark);**
8. **To continue improving the living conditions of detainees (Algeria) and ensure its prioritization (Ireland);**
9. **To strengthen the Human Rights Commission with a status in accordance with the Paris Principles, particularly with respect to human resources and independence (France);**
10. **That juvenile courts and justices be established to enhance access to justice of children in conformity with their specific needs (Austria);**
11. **That a strategy of assistance and prevention be developed for street children in order to protect and guarantee their rights, involving community-based associations and other civil society organizations (The Netherlands);**
12. **To continue with its efforts to strengthen the rights of the child and protect them even further, in particular, the necessary resources should be earmarked so as to protect the weakest segments of the population, above all the disabled persons, and assistance should be requested from UNICEF in that regard (Libyan Arab Jamahiriya);**
13. **To continue its efforts to improve its educational system and seek international assistance in this regard (Algeria);**
14. **To develop a national strategy for human rights education in the school system in accordance with the Plan of Action 2005-2009 of the World Programme for Human Rights Education, including the review and revision of curricula and textbooks, the training of teachers, and the practice of human rights in the school community (Italy);**
15. **To continue its efforts in economic, social and cultural rights to further build upon the progress it has already made (Cuba);**
16. **To consider developing a strategy that ensures that the experiences of community practitioners are taken into account in the development of its national strategies to improve health standards in maternal neo-natal and child health (New Zealand);**
17. **To improve access to anti-retroviral treatment for vulnerable groups, including women (Canada);**
18. **To share the experiences and good practices which have enabled Zambia to obtain significant results in the field of education, particularly the access of girls to education and training (Cuba);**

19. To accelerate its efforts to finalize the national anti-corruption policy and mechanisms for monitoring its implementation (South Africa).

59. The following recommendations will be examined by Zambia which will provide responses in due time. The response of Zambia to these recommendations will be included in the outcome report adopted by the Human Rights Council at its eighth session:

1. To interpret statutory law and to set enforcement mechanisms in a way that protects unionized and non-unionized workers equally and without discrimination (Slovenia);
2. That the prohibition of discrimination be strengthened in the context of the current constitutional-review and furthermore that specific legislation be adopted to ensure the full implementation of CEDAW on the ground (Austria);
3. To consider adhering to the optional protocol to CEDAW (Brazil);
4. To transform the de facto moratorium on death penalty into a de jure moratorium (France, United Kingdom, Chile);
5. To sign the Optional Protocol to the Convention against Torture at the earliest possible opportunity (United Kingdom);
6. To consider taking steps to change the Defamation Act in the Criminal Code in order to broaden the space for exercising the freedom of expression (Norway);
7. The swift adoption of the bill on freedom of information (Norway);
8. That international treaties adhered to by Zambia enjoy full implementation and that their incorporation in domestic law be accelerated (Democratic Republic of the Congo) and to report to the Human Rights Council about further concrete steps that will be taken to implement the ratified international conventions in domestic law (Netherlands);
9. To consider ratifying the Convention on the Rights of Persons with Disabilities and the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Mexico);
10. To take all appropriate measures to improve the situation of women's rights on the ground and retain in the draft Constitution currently under discussion both the provision on equality before the law regardless of sex and the provision prohibiting any law, culture, custom or tradition that undermine the dignity, welfare, interests or status of women (Italy, Canada);
11. To continue the reform of the Criminal Code in relation to the prosecution of journalists (Ireland).

60. The recommendations noted in the report in paragraph 19 (a) and (b) and paragraph 22 (b) above did not enjoy the support of Zambia.

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

Annex

Composition of the delegation

The delegation of Zambia was headed by H.E. Ms. Gertrude Imbwae, Permanent Secretary, Ministry of Justice and composed of 19 members:

- Mr. Mathias Daka, Chargé d' Affaires, Permanent Mission of Zambia to United Nations, Geneva;
- Ms. Encyla Sinjela, Counsellor, Permanent Mission of Zambia to United Nations, Geneva;
- Ms. Sindiso N. Kankasa, Governance Secretariat;
- Ms. Inonge K. Mweene, Ministry of Justice - ILA;
- Ms. Catherine L. Phiri, Directorate of Public Prosecutions;
- Mr. Greenwell Lyempe, Immigration Department ;
- Ms. Dorothy Zimba, Police Public Complaints Authority;
- Mr. Tsibu Bbuku, Ministry of Health;
- Ms. Annetee Nhekairo, Zambia Law Development Commission;
- Mr. Edward Musona, Judiciary;
- Ms. Lynn M. B. S Habanji, Ministry of Lands;
- Mr. Teddy Chola, Zambia Prisons Service;
- Ms. Chileshe Kasoma, Ministry of Community Development and Social Services;
- Mr. John Zulu, Ministry of Youth, Sport and Child Development;
- Mr. Danny Zulu, Ministry of Local Government and Housing;
- Ms. Rhoda Mwiinga, Gender in Development Division;
- Mr. Ronald Kaulule, Ministry of Education;
- Ms. Hope N. Chanda, Human Rights Commission;
- Mr. Palan Mulonda, Human Rights Commission.
