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HUMAN RIGHTS COMMITTEE

Sixty-second session

SUMMARY RECORD OF THE 1650th MEETING

Held at Headquarters, New York,
on Wednesday, 25 March 1998, at 3 p.m.

Chairperson: Ms. CHANET

later: Ms. MEDINA QUIROGA
(Vice-Chairperson)

later: Ms. CHANET
(Chairperson)

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The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Initial report of Zimbabwe (CCPR/C/74/Add.3 and HRI/CORE/1/Add.55)
(continued)

1. At the invitation of the Chairperson, Mr. Chigudu, Ms. Chatukuta and Ms. Nzenza (Zimbabwe) took places at the Committee table.

Part I of the list of issues

Issue 1: Status of the Covenant

2. The CHAIRPERSON read out the content of issue 1, concerning the need for information as to the status of the Covenant within the domestic legal order, whether the provisions of the Covenant could be invoked directly before State organs, including the courts, what legal mechanism existed to protect the rights guaranteed under the Covenant and whether its provisions had been cited in judicial decisions or had taken precedence over a conflicting provision of domestic law during the period under review.

3. Mr. CHIGUDU (Zimbabwe) said that the Covenant could not be invoked directly under domestic legislation since international instruments to which Zimbabwe had acceded were subject to parliamentary approval and could not be implemented unless specifically incorporated into the national legislation. However, the rights embodied in the Covenant were already guaranteed under the Constitution, particularly chapter III. The legal mechanisms to protect the rights enshrined in the Covenant were described in section 24 of the Constitution.

4. Ms. CHATUKUTA (Zimbabwe) said that provisions of the Covenant had been cited in several recent judicial decisions, including the Rattigan case mentioned in paragraph 5 of the report.

Issue 2: Social disturbances

5. The CHAIRPERSON read out the content of issue 2, concerning the measures taken following the recent social disturbances in Zimbabwe and, in particular, their impact on the enjoyment of rights under the Covenant.

6. Mr. CHIGUDU (Zimbabwe) said that, as he had stated at the previous meeting, the current economic crisis had led to a series of riots in late 1997 and early 1998. The Government took the view that although the people might have legitimate complaints, they were not entitled to employ unlawful means to effect change. When it became clear that the disturbances were degenerating into anarchy, the Government had fulfilled its obligation to restore law and order by calling on the police, which, when they had proved unable to contain the situation, had invited the army to assist. Although the police and army had used only reasonable force, there had been allegations to the contrary and an investigation was under way.

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Issue 3: State of emergency (article 4 of the Covenant)

7. The CHAIRPERSON read out the content of issue 3, concerning the need for clarification as to how the provisions of the Constitution mentioned in paragraphs 47 and 49 of the report were in conformity with article 4 (2) of the Covenant, whether there was any possibility of a court review of decisions taken by the tribunals mentioned in paragraph 49 of the report, what safeguards and effective remedies were available to individuals during states of emergency and whether the Government had considered making the declaration provided for in article 4 (3) of the Covenant. The delegation was also requested to comment on the urgent measures taken following the recent disturbances in urban areas.

8. Mr. CHIGUDU (Zimbabwe) said that emergency powers could be invoked only if State security was threatened, as was authorized under article 4 of the Covenant and section 25 of the Constitution. However, no state of emergency had ever been declared in Zimbabwe and no urgent measures except those authorized under the Law and Order Maintenance Act had been taken during the recent disturbances. His delegation would provide the Committee with a detailed explanation of the safeguards and remedies available during states of emergency at a later date.

Issue 4: Use of weapons by the police (articles 6, 7 and 10 of the Covenant)

9. The CHAIRPERSON read out the questions relating to issue 4: the need for information concerning the rules and regulations governing the use of weapons by the police and security forces and their compatibility with the Covenant, any measures taken against persons found guilty of unjustified use of force and any action to prevent the recurrence thereof. The Committee also wished to know whether an independent agency had been established to investigate complaints and recommend redress in respect of violations of human rights by the police.

10. Mr. CHIGUDU (Zimbabwe) said that section 12 (2) of the Constitution authorized the police to use reasonable force when necessary.

11. Ms. CHATUKUTA (Zimbabwe) said that no independent agency had been established to handle complaints of police violations of human rights; the matter was dealt with under normal domestic legislation.

Issue 5: Extrajudicial executions, disappearances and torture (articles 6, 7 and 9 of the Covenant)

12. The CHAIRPERSON read out the questions relating to issue 5: complaints of extrajudicial executions, disappearances, torture or other inhuman or degrading treatment or punishment and arbitrary detention during the period under review; the investigation or prosecution of such violations; and action taken by the authorities to punish members of the security, police and other forces found guilty of such acts and compensate the victims.

13. Mr. CHIGUDU (Zimbabwe) said that torture and inhuman or degrading treatment or punishment were expressly prohibited under section 15 of the Constitution and that executions were carried out only after due process. There had been no

known cases of disappearance or torture in Zimbabwe since 1996, when the report had been submitted.

14. Ms. CHATUKUTA (Zimbabwe) said that there had been cases in which human rights violations by the police and security forces had been investigated and prosecuted and that the Government had paid US\$ 150,000 in compensation to the victims of such violations in 1996 and 1997.

Issue 6: Corporal punishment (article 7 of the Covenant)

15. The CHAIRPERSON read out the content of issue 6, which referred to paragraph 74 of the report and concerned steps taken to repeal or amend section 15 (3) of the Constitution, which permitted corporal punishment by anyone in loco parentis or in execution of a court order.

16. Mr. CHIGUDU (Zimbabwe) said that the Government and people of Zimbabwe had not found it necessary to amend or repeal that provision.

Issue 7: Police custody and pre-trial detention (article 9 of the Covenant)

17. The CHAIRPERSON read out the questions relating to issue 7: the rules relating to the maximum length of time which could be spent in police custody and pre-trial detention; compliance with them in practice and their compatibility with article 9 of the Covenant; the applicable rules for the granting of bail; and, with reference to paragraph 98 of the report, the fast track system and whether it had reduced the backlog in pre-trial cases.

18. Mr. CHIGUDU (Zimbabwe) said that police custody was limited to a maximum of 48 hours; any extension must be authorized by a judge. If that regulation was violated, the officer in charge would be dealt with by the courts. There was no maximum limit to pre-trial detention; its duration varied with the nature of the crime and was established not by the police, but by the courts, which took into consideration the provisions of international law. Those rules were, therefore, compatible with article 9 of the Covenant. The rules for the granting of bail were also determined by the courts; in some cases, bail had been granted even in murder cases. The fast track system was used in straightforward cases, such as pick-pocketing, where there was no need to detain the suspect and the courts could deal with the case immediately.

19. Ms. CHATUKUTA said that the lower courts were competent to grant bail only for lesser offences and must apply to the high courts in the case of more serious crimes, such as murder, for which bail would rarely be granted.

Issue 8: Non-discrimination and equality of sexes (articles 2 and 3 of the Covenant)

20. The CHAIRPERSON read out the questions concerning issue 8: current data on the number and proportion of women in the political, economic, social, educational and cultural life of the country, and factors impeding the equal enjoyment by women of their rights.

21. Mr. CHIGUDU (Zimbabwe) said that many of the practical impediments to women's enjoyment of their rights were the result of the structural adjustment measures being implemented in Zimbabwe. As he had stated at the previous meeting, a 1996 constitutional amendment had prohibited discrimination on grounds of race, gender or religion. The Government had undertaken a gradual review of cases where customary law conflicted with the provisions of the Covenant, including the areas of inheritance and marriage. The Legal Age of Majority Act placed women on the same footing as men in that regard. While the pledging of children in marriage (kuzvarira) was illegal, the payment of lobola (bride price) was an integral part of the culture which tended to promote unity in family groups and had prevented the dissolution of many marriages. The minimum age for marriage was 18; however, marriage between a 16-year-old girl and an 18-year-old boy was permissible with the consent of the girl's parents or the court.

22. Ms. CHATUKUTA (Zimbabwe) said the fact that men were traditionally better educated than women had given them greater economic empowerment and made it difficult for women to protect and enjoy their human rights. There had, however, been progress in that regard; for example, although women had formerly been considered perpetual minors, subject to their husband or father, the new inheritance legislation had placed them on an equal footing with men. Nevertheless, cultural pressures still tended to relegate women to a secondary role. Non-governmental organizations had developed programmes to inform women of their rights and the means of invoking them.

Issue 10: Violence against women and children (articles 6 and 7 of the Covenant)

23. The CHAIRPERSON read out the content of issue 10, concerning the need for information on measures taken to prevent acts of violence, including domestic violence, against women and children, and whether marital rape was punishable under the Zimbabwean Criminal Code.

24. Mr. CHIGUDU (Zimbabwe) said that there was no specific legislation on violence against women, which was covered by the general legislation on assault. However, children were protected against acts of violence under the Child Protection and Adoption Act.

25. Marital rape was not recognized in Zimbabwe; since women did not take the initiative in sexual relations and were expected to show a degree of resistance, there was a thin line between consent and rape.

26. Ms. CHATUKUTA (Zimbabwe) said that the Child Protection and Adoption Act included provisions to protect children against domestic violence and that the Department of Social Welfare could place children in protective custody. The victims' parents were prosecuted and obliged to pay maintenance for their children.

Issue 11: Child labour (article 24 of the Covenant)

27. The CHAIRPERSON read out the content of issue 11, concerning the results of the work of the Child Labour Task Force mentioned in paragraph 224 of the report.

28. Mr. CHIGUDU (Zimbabwe) said that there was, as yet, no information on that matter.

29. Mr. BHAGWATI requested information on the competence of the Inter-Ministerial Committee on Human Rights and International Humanitarian Law mentioned in paragraph 13 of the report and asked whether that Committee could investigate complaints of human rights violations and provide redress or recommend that the Government should do so. If not, he would like to know what institutional mechanism was responsible for investigating such complaints and whether the Government planned to establish a national human rights commission or similar body.

30. He requested additional information on the disturbances in Matabeleland and the Midlands between 1980 and 1998. The report entitled "Breaking the Silence", stated that there had been over 3,000 extrajudicial executions, hundreds of disappearances, over 7,000 beatings or cases of torture and more than 10,000 arbitrary detentions, many of them committed by members of the army's Fifth Brigade. He asked what the Government was doing to bring those responsible to justice and compensate the victims.

31. The delegation had stated that the Government had paid US\$ 150,000 in compensation for human rights violations by the police. He asked whether any action had been taken against the officers responsible for those violations and what the State was doing to prevent their recurrence.

32. He enquired whether the new legislation which gave widows the right to inherit one third of their husband's estate were applicable to customary marriages, what steps the Government was taking to make women aware of that right and help them to exercise it and whether there had been popular resistance to the new legislation.

33. He asked why there was a difference between the minimum legal age of marriage for boys (18) and girls (16) and whether the delegation claimed that early marriage was no longer practised even under customary law. He also wondered whether ngozi (the pledging of girls to appease dead men's spirits) and chiramu (which entitled men to have sexual relations with their unmarried sisters-in-law) were still practised and, if so, what impact those customs had on women's exercise of their human rights and what the Government was doing to eradicate the practices. He also wondered whether lobola was still generally considered a necessary condition for marriage and whether the Government had plans to outlaw polygamy, even in the case of customary marriages. He asked whether female genital mutilation was still practised in Zimbabwe and, if so, what was being done to combat it. He had also heard that customary law allowed a rapist to pay lobola to the victim's family and marry her in order to escape prosecution. He wondered how frequent such cases were and whether the Government was taking steps to ensure that such rapists were brought to justice. With regard to domestic violence, he asked the delegation to explain whether

marital rape was recognized in cases where it was clear that a husband had forced a wife to have sexual relations against her will.

34. Under Zimbabwean legislation, fathers had guardianship and custody rights over their children, even in the case of infants. He wondered whether the Government had plans to guarantee mothers custody of their children.

35. He also requested clarification of the legislation on citizenship and, in particular, whether a foreigner who married a Zimbabwean woman was automatically entitled to Zimbabwean citizenship and a residency permit and whether the same was true of a foreigner who married a Zimbabwean man. He had heard that a child born outside Zimbabwe was entitled to automatic Zimbabwean citizenship only if the father was Zimbabwean.

36. Lastly, he asked whether human rights education was provided to the general public and, in particular, to the police.

37. Ms. EVATT, referring to issue 1, observed that the delegation had acknowledged that the Covenant was not directly applicable in Zimbabwe, and could not be invoked before the courts. That meant that the provisions of the Covenant relied on constitutional protections. And yet, it seemed that Parliament could reverse such constitutional guarantees; it had overturned decisions of the Zimbabwean courts that had deemed that corporal punishment and delays in carrying out an execution were cruel.

38. The delegation had stated, in its reply concerning issue 2, that some citizens had committed unlawful acts during the recent social disturbances. The Committee was disturbed by the allegations, from several sources, that excessive force had been applied. It would be useful to know whether an inquiry was being conducted into the use of excessive force by the police or the military, what agency was conducting such an inquiry, and whether the inquiry was comprehensive in scope.

39. The delegation had also indicated that a person who had been arrested must be brought before the courts within 48 hours. But independent sources suggested that a police officer could issue a warrant prolonging the detention for up to four days. Was that measure provided by law, or practised in fact? Such sources had also observed that amendments to the Criminal Procedure and Evidence Act required that magistrate's courts obtain the consent of the Attorney-General in order to grant bail. It would be useful to know whether that was in fact the procedure, and how the consent was obtained.

40. The State party should explain whether the amendments made to the Constitution, namely the removal of section 11, which expressly prohibited discrimination on the basis of sex, and the addition to section 23 of a clause prohibiting discrimination on that basis, diminished or enhanced the protection of the right of equality. What limitations or exemptions were currently applied to the prohibition against sex-based discrimination? In what ways did the Zimbabwean legal system continue to discriminate against women?

41. It would also be useful to know whether dress codes for women were established by law, whether similar codes were applied to men, and whether women

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could be arrested for the breach of those standards. Instances of such arrests, which had also involved beatings, had been brought to the Committee's attention. Was it true that women were often arrested for prostitution but that men who committed the same act were not criminally liable? Under the resettlement programmes, were women permitted to own and manage land?

42. The answer provided by the delegation to the question concerning marital rape, raised in issue 10, indicated that Zimbabwean women were insufficiently protected. The matter should be reviewed as a matter of urgency and appropriate amendments enacted.

43. The State party should explain what measures it had taken to comply with the terms of article 24, paragraph 2, concerning birth registration. It would also be useful to know what measures, if any, had been taken to reduce the incidence of AIDS, especially in view of the disproportionate numbers of young women afflicted, and to protect the interests of children orphaned by AIDS, referred to in paragraph 227 of the report.

44. Mr. KLEIN commended Zimbabwe for the quality of its initial report. He was gratified that the Government had entered a declaration under article 41, and had entered no reservation on signature or ratification. The Covenant was therefore wholly binding on Zimbabwe, a fact which would represent a significant challenge for any State. And yet, such an undertaking should entail consequences: the provisions of the Covenant should be reflected in domestic law. It made no sense to ratify an international instrument merely to garner prestige.

45. Paragraph 74 of the report indicated that corporal punishment was permitted in Zimbabwe; the delegation had stated that the Government and people of that country were not prepared to prohibit that activity. Paragraph 75 revealed that the Supreme Court had, in the case of S. v. Ncube, which involved punishment by whipping, condemned the mode of administering the punishment, but not the punishment itself. Although whipping apparently did not contravene Zimbabwean law, it violated the provisions of the Covenant. The State party should review all domestic legislation to ensure its conformity with the terms of the Covenant.

46. Furthermore, paragraph 73 of the report stated that nothing contained in or done under the authority of any law should be considered a contravention of the Constitution "to the extent that the law in question [made] provisions in the interests of defence, public safety, public order, public morality or public health". And yet, article 4 of the Covenant stipulated that the rights protected under article 7 could not be derogated from under any circumstances. It would be useful to know whether the Government envisaged bringing the relevant legislation into conformity with the terms of the Covenant. With reference to issue 5, the State party should describe in detail the procedure by which an individual who had been subjected to abuse by police or security forces could seek redress for the violation of his rights.

47. Lastly, paragraph 41 of the report indicated that written law and customary law existed simultaneously; usually, written law overrode customary law. The State party should explain how those two conflicting systems coexisted.

48. Mr. EL-SHAFEI said that although the initial report of Zimbabwe was comprehensive, it did not always accurately represent the facts. It stated, for instance, that freedom of the press was protected, but failed to mention that the mass media were firmly under the control of the Ministry of Information, which ensured that only material acceptable to the Government was published. Editorial freedom was limited, and if an editor uncovered information that was embarrassing to the Government, or published an editorial comment that was unfavourable to the Government, he was apparently removed from his post.

49. Since a constitutional amendment had established that international instruments did not form part of Zimbabwean domestic legislation unless they were incorporated therein by an act of Parliament, it would be useful to know if the Covenant had been so incorporated, and when the enacting law had been passed.

50. In its reply to issue 2, the delegation had stated that the Government had launched an investigation concerning both the instigators of the social disturbances and the police who had used excessive force. The State party should describe, in detail, the results of that investigation.

51. Although the delegation had stated that inheritance law had been reformed to provide for equality between men and women, the law governing the citizenship of Zimbabwean children born abroad remained discriminatory.

52. Ms. MEDINA QUIROGA, noting that the Constitution had been amended with regard to the matter of the prohibition of discrimination based on sex, observed that in reply to the question whether the Covenant had been cited in a judicial decision, the delegation had mentioned the case of Rattigan and Others v. Chief Immigration Officer and Others 1994. It seemed, however, that the bill which would amend section 11 of the Constitution also overturned the decision of the court in that case. The question thus arose whether the fact that the Covenant had been cited in that decision was of any relevance.

53. She agreed with Mr. Klein that the Zimbabwean Government must bring its legislation into conformity with the terms of the Covenant; she also shared his views with regard to article 7.

54. With reference to article 9 of the Covenant, the State party should explain whether the fast track court system abided by all the requirements of article 14. Paragraph 89 of the report stated that a person could be arrested for vagrancy. Since an arrest should only be made if the person arrested was to be prosecuted for a crime, the State party should provide the criminal definition of vagrancy and indicate the relevant penalty.

55. In connection with issue 7, the Government had been asked whether legal limits on pre-trial detention were complied with in practice. Information received by the Committee suggested that such was the case. The delegation had indicated that a considerable sum was paid as compensation for unlawful arrest; paragraph 101 of the report stated that such compensation was paid by the individual responsible for the arrest. It would be useful to know whether the State also assumed responsibility for the payment of compensation in such cases.

56. She objected to the statement, contained in paragraph 10 of the report, that human rights issues had "degenerated" into gender issues. Although a constitutional amendment would prohibit discrimination based on gender, such discrimination would apparently still be permissible in the interests of defence, public safety and public morals. If such was the case, what was the reason? Furthermore, although section 11 of the Constitution proscribed discrimination, it excluded from that provision all matters pertaining to personal law, an arrangement which was unfavourable to women.

57. Mr. Klein had expressed surprise at the coexistence of customary law and written law. But the situation was even graver: by constitutional amendment, customary law had been incorporated into the written law. The State party should clarify whether such practices as female genital mutilation, kuzvarira, kuripa ngozi, chibano and lobola formed part of the customary law, and, if such was the case, why it had decided to incorporate the customary law into the written law. The Government had referred to the above-mentioned practices in its discussion of article 27; but since they involved cruel and inhuman treatment and affected children, they might more appropriately have been discussed in relation to articles 7 and 24.

58. Paragraphs 214, 232, 233 and 234 of the report referred to Zimbabwean legislation that was frankly discriminatory and contravened the terms of the Covenant. Furthermore, although paragraph 212 indicated that for a marriage to be valid under general law, both partners must voluntarily consent to the union, women who married under customary law were apparently excluded from that protection. How did negotiated marriages comply with the terms of article 23? Furthermore, if there was no minimum age for marriage, was it possible to invoke the notion of consent? Paragraph 223 stated that the Customary Marriages Act prohibited the pledging of girls under 12 and also of women. It would be useful to know if there existed a category between age 12 and womanhood. Were females aged 12 and over considered women? The statements that followed were baffling.

59. Mr. KRETZMER said that he shared the concerns of other members of the Committee regarding Parliament's habit of intervening to reinterpret or even rewrite parts of the Constitution whenever the courts ruled against the Government on constitutional grounds. Whatever the constitutional situation, Parliament had ratified the Covenant and was therefore bound by it.

60. Corporal punishment as practised in Zimbabwe violated article 7 of the Covenant. Moreover, it was astonishing to learn that medical practitioners were required to declare a juvenile fit to undergo such punishment, in clear violation of medical ethics (para. 76 of the report). The State party should indicate whether that inconsistency had ever given rise to a debate in Zimbabwe.

61. On the issue of marital rape, it was incumbent on the State party to ensure that its citizens enjoyed all the rights embodied in the Covenant. Although such an undertaking might be difficult given the strength of certain traditional customs, those customs should never be used as an excuse for not acting at all. The Zimbabwean authorities should indicate whether they were prepared to reconsider their position on that issue.

62. Insofar as political rights were concerned, paragraph 245 of the report stated that political parties had to register with an executive authority in order to receive a grant from the State. The total amount payable was proportional to the number of elected party representatives who were members of Parliament, provided they were no fewer than 15. In practice therefore, only the ruling party was entitled to public finance. The delegation should indicate whether it considered such a situation to be consistent with article 25 of the Covenant.

63. Mr. LALLAH said that the Zimbabwean report had been drafted in accordance with the guidelines, but it had not taken account of the Committee's general comments or rich jurisprudence. When a State party submitted a report, it should reflect an awareness of the Committee's general concerns and expectations.

64. The purpose of the present encounter was not to conduct a review of the constitutionality of the laws of Zimbabwe but rather to ascertain the extent to which Zimbabwe's Constitution and laws complied with the Covenant. The Zimbabwean Parliament could amend the country's Constitution, but it was not free to amend the Covenant. As in many other British Commonwealth countries, the courts in Zimbabwe had interpreted the previous section 11 of the Constitution to be both declaratory and enacting, i.e. as granting rights. However, a number of the rights contained therein had not found their way into the rest of the Constitution. For example, the concept of privacy as understood in the Covenant had not been dealt with satisfactorily even in the previous section 11, and there was no mention at all of the right of privacy in relation to the lives of individuals. It was gratifying to note that the fourteenth amendment to the Zimbabwean Constitution extended full legal protection to women, and therefore guaranteed their rights in marriage. But if, as the report stated, there was a dual system of law in Zimbabwe, it was difficult to understand the purport of section 3 of the Constitution, which stated that the Constitution was the supreme law of Zimbabwe and if any other law was inconsistent with it, that other law would, to the extent of its inconsistency, be void. So if custom had the force of law, yet discriminated against women, it could not be law by virtue of the supremacy of the Constitution. The delegation should clarify that all inequalities arising from cultural peculiarities were therefore unconstitutional.

65. On the issue of violence against women, especially in the home, he had detected two contradictory approaches from the Zimbabwean delegation. On the one hand, there was the unhelpful allusion to what happened in other societies. The Committee was interested solely in Zimbabwe's approach to the problem. It was important to recognize that violence against women was a worldwide problem which had given rise to declarations of the rights of women. Such declarations had to be treated with respect. On the other hand, he commended the efforts which had been made in Zimbabwe to strengthen women's rights.

66. In the matter of Rattigan and Others v. Chief Immigration Officer and Others, the case had been legislated against constitutionally because of the erroneous approach of the courts in regard to freedom of movement. But the matter did not stop there. As the Committee's own jurisprudence demonstrated, certain laws affecting women also affected the right to family life. In that

connection, the State party should indicate where, if at all, family life was guaranteed under the Constitution.

67. Ms. Medina Quiroga, Vice-Chairperson, took the Chair.

68. Ms. SCHEININ congratulated the Zimbabwean judiciary on its willingness to apply the Covenant in order to secure various rights for citizens. At the same time, however, the Committee was concerned at the frequency with which the legislature had overridden the judiciary and successfully amended the Constitution. The primary responsibility for ensuring compliance with the Covenant lay with the legislature. In that connection, the State party should indicate whether there were any special bodies or procedures for monitoring the legislature's observance of Zimbabwe's international treaty obligations whenever it made constitutional amendments.

69. Corporal punishment was a violation of article 7 of the Covenant, and any constitutional endorsement of such punishment also constituted a violation. Section 12 of the Zimbabwean Constitution and paragraph 51 of the report demonstrated the importance of international guarantees even when domestic lists of constitutional rights existed. The list of circumstances in which the authorities could use weapons was alarmingly long, and in some cases seemed to conflict with article 6 of the Covenant. International standards for the use of weapons by the authorities had been elaborated, in comparison with which the Zimbabwean list of authorized uses was outdated and too broad in scope. Additional information should be supplied on any other guidelines or standards for the use of weapons.

70. The issues of female genital mutilation and marital rape should be dealt with in the context of articles 6 and 7 of the Convention. It was misleading to categorize such practices as cultural customs or traditions.

71. Ms. Chanet resumed the Chair.

72. Mr. ANDO said that the purpose of dialogue with the State party was to collaborate in problem-solving and overcoming difficulties. The report demonstrated the political will of the Zimbabwean Government to implement the requirements of the Covenant to the extent possible. However, the notion of a dual system of law was confusing. It was unclear whether a distinction was being drawn between traditional customs and customary law. In addition, legislation in many countries often left implementation to custom. The delegation should clarify whether that was the concept it had meant to convey when it referred to legislation and custom going hand in hand. The Committee was extremely perturbed by the behaviour of the Zimbabwean legislature in amending laws (and even the Constitution) after the courts had reached a decision on a particular matter. Such behaviour revealed a hostile attitude to legally enshrined rights by instituting a tyranny of procedure over substantive law.

73. With specific reference to paragraph 42 of the report, which revealed the existence of a legal mechanism for ensuring that widows and dependants could inherit a deceased man's estate (which was not the case under customary law), he had noted that many dependants were either unaware of the legislation or were

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frightened by the whole litigation process. The Zimbabwean Government should indicate how it intended to address that specific problem. In the meantime, the authorities were to be commended for seeking the involvement of the public on the best way to amend existing laws.

74. Mr. CHIGUDU (Zimbabwe) said that his delegation appreciated the Committee's comments and took them in the constructive spirit in which they had been made. Whatever his Government had failed to do to implement the Covenant was not by choice or through disregard of internationally accepted principles. Rather, its efforts had been bogged down by cultural constraints. There was no point in enacting laws which would not be enforceable owing to cultural factors. However, the population was being encouraged to move away from traditional attitudes and practices that hindered the implementation of the Covenant.

75. In reply to Mr. Bhagwati, he said that his Government was trying to give effect to all the provisions of the Covenant. Failings in that regard were investigated by the institutions concerned; regrettably, no separate institution had been set up to perform investigative functions. Investigations could be initiated through the submission of a written complaint to the Ministry of Home Affairs, which directed the institution involved to investigate the complaint and to report back to the Ministry. With respect to the recent disturbances in Matabeleland, he did not recall that any specific cases had been drawn to the Government's attention.

76. With respect to inheritance and legal assistance, customary laws on inheritance had become less important. As people became more aware of their rights, they were more likely to come forward to claim their fair share of inheritances by approaching a master of the High Court, who advised them of the procedures for obtaining their share of an inheritance.

77. It was true that men in Zimbabwe sometimes tended to resist the changes being introduced, but educational efforts were under way to help them understand the importance of breaking free of old customs. With respect to the practice of ngozi, no legislation on the matter had ever been enacted. Ngozi was a social and cultural practice based on the belief that the spirit of a murdered person would haunt the murderer unless it was appeased. Likewise, no legislation existed on chiramu, which was usually an innocuous custom that did not lead to the commission of adultery; in the relatively few cases in which it did, such behaviour was condemned by society. With respect to guardianship, the courts currently acknowledged women's equal right to the custody of children. Decisions in that regard were based on the best interests of the child.

78. One cultural practice which had once had the status of law was that of lobola. Traditionally, couples had not been considered to be legally married unless lobola had been paid. Currently, marriage certificates had become the means of certifying the legality of marriages. To his knowledge, female genital mutilation was not a traditional practice in Zimbabwe. Marital rape was not seen as an issue in Zimbabwe, owing to prevailing cultural attitudes. As education on and awareness of human rights increased, victims of marital rape would lodge complaints and the Government would take appropriate steps to address them. However, the problem could not be addressed until it was identified as such by the population concerned.

79. The law whereby a woman, upon marrying a foreigner, automatically became subject to the laws of the husband's country had been changed. Currently, any foreigner who married a citizen of Zimbabwe, whether male or female, was required to comply with immigration formalities in Zimbabwe. Lastly, with respect to alleged attempts to circumvent court decisions, the executive branch of the Government of Zimbabwe considered the judicial branch as its equal and respected the latter's independence.

80. Ms. CHATUKUTA (Zimbabwe) said that the Inter-Ministerial Committee on Human Rights and International Humanitarian Law, which had been established in 1992, had three main functions: to identify which human rights instruments had not yet been ratified or acceded to by Zimbabwe and to make recommendations concerning ratification or accession; to make recommendations for the specific incorporation of the provisions of international instruments into national legislation; and to ensure that the Government complied with its international reporting obligations and otherwise implemented the human rights instruments to which it was a party. In connection with that last function, the Inter-Ministerial Committee reviewed the implementation of the relevant legislation, recommended changes to bring Zimbabwe into compliance with international standards and organized seminars to disseminate information on the international instruments to which Zimbabwe was a party. Although those efforts were hindered by financial constraints, some non-governmental organizations had also organized human rights seminars and workshops, some of which had been directed towards the police and defence forces. Since the Inter-Ministerial Committee was only an administrative organ, it did not have the power to investigate specific complaints of human rights violations.

81. With respect to the recent situation of civil strife, it was impossible to determine whether members of government forces or dissidents had been responsible for specific atrocities. That was a universal problem with regard to cases of civil unrest. However, Zimbabwe recognized that the Government was basically responsible for ensuring that no human rights violations were committed on either side. Zimbabwe's common law recognized the principle of vicarious responsibility, under which employers were responsible for the acts of their employees. No specific actions had been brought against the Government or individuals with respect to human rights violations committed during the disturbances. The total amount of compensation paid had been \$150,000, which had been paid by the Ministry of Home Affairs, not by the officers alleged to have committed the violations.

82. Prior to the recent amendment of the law on inheritance, when a woman's husband died, the High Court (or a magistrate's court, if the couple had been married under customary law) would appoint an heir who inherited virtually the entire estate of the deceased. Parents and children of the deceased could bring claims for support against the heir, but could not inherit any part of the estate. Under the new law, the heir so appointed inherited only the title of father of the family, while the widow inherited one third of the estate and the other dependants inherited the remaining two thirds. If the deceased had had more than one wife, the total share to which all the wives were entitled was still one third. The fact that no part of an estate could be disposed of unless that procedure was followed helped to ensure that widows received the correct share of their husband's property.

83. The law concerning marriageable age had been inherited upon Zimbabwe's independence. The need to change the law was currently being discussed in the Inter-Ministerial Committee. The gradual shift away from the practices of customary law was illustrated by the fact that a men's organization had been established to promote women's rights, so as to ensure that gender issues were addressed from men's perspective as well as women's and to encourage men to take responsibility for making changes so that women could enjoy their human rights.

84. Ms. NZENZA (Zimbabwe) said that lobola was merely a token of appreciation given by a bridegroom to the parents of the bride. It did not imply that the marriage had been arranged by the parents; consent to the marriage was between the intending spouses. Ngozi was a traditional belief which, in certain cases, had served to bring offenders to light. Chiramu was a playful relationship, not an abusive one, and was valuable because it helped to ease the transition to a new family upon marriage. It was not exactly true that, in cases of rape, the charges were dropped if the perpetrator agreed to marry the victim. Rather, the victims usually agreed to settle out of court in such cases, and the Government was powerless to change their decision.

85. Ms. CHATUKUTA (Zimbabwe) said that women sometimes alleged that they had been raped because they were concerned about the social stigma attached to pregnancy outside marriage. Such complaints were often used as a means of compelling men to recognize their responsibility in the matter, and were dropped following negotiations between the two families involved. However, there had been cases in which criminal charges had been filed on the ground that the woman had provided false information.

86. Ms. MEDINA QUIROGA said that the delegation's answers concerning traditional practices did not seem to coincide with the information given in paragraph 262 of the report and that the answers concerning the laws on guardianship and nationality appeared to contradict paragraphs 232 to 234. She asked whether those paragraphs of the report were outdated or inaccurate. She also wished to know whether lobola could be paid in cases of rape.

The meeting rose at 6 p.m.