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COMMITTEE AGAINST TORTURE

Fortieth session

SUMMARY RECORD OF THE FIRST (PUBLIC) PART OF THE 824th MEETING*

Held at the Palais Wilson, Geneva,
On Thursday, 8 May 2008, at 10 a.m.

Chairperson: Mr. GROSSMAN

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* No summary record was prepared for the second (closed) part of the meeting.

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The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 7) (*continued*)

Second periodic report of Zambia (CAT/C/ZMB/2, CAT/C/ZMB/Q/2, CAT/C/ZMB/Q/2/Add.1, HRI/CORE/1, HRI/CORE/1/Add.22/Rev.2)

1. *At the invitation of the Chairperson, Ms. Imbwae, Mr. Daka, Ms. Sinjela, Ms. Kankasa, Ms. Wweene, Ms. Phiri, Mr. Eyaa, Mr. Chilukutu, Mr. Lyempe, Mr. Cheembwe, Ms. Zimba, Ms. Chatwila, Mr. Bhuku, Ms. Nhekairo, Mr. Musona, Ms. Habanji, Mr. Chola, Ms. Kasoma, Mr. John Zulu, Ms. Chanda, Mr. Mulonda, Mr. D. Zulu and Ms. Chola (Zambia) took places at the Committee table.*

2. Ms. IMBWAE (Zambia), welcoming the opportunity given her to present the second periodic report of Zambia, stated that responsibility for the preparation of national reports lay with the Ministry of Justice. To that end the Ministry had established an interministerial committee with responsibility for reporting on the human rights situation; it consisted of members of the different ministries and departments concerned, the judiciary, the Human Rights Commission, civil society and academia. One of the tasks of the Committee had been the collection of the information presented in the report. The report itself had been drafted under the supervision of the Ministry of Justice and approved at a nation-wide colloquium in June 2005 held with the participation of all the parties concerned, namely various national bodies and organizations of civil society. Zambia had in fact established a practice ensuring the involvement of civil society in the preparation and approval of reports on human rights; that had, for example, been the case with the report submitted in connection with the Human Rights Council Universal Periodic Examination of May 2008. Thus the report described, honestly and accurately, the measures taken by Zambia to implement the Convention against Torture.

3. The preparation of the report had given the Government the opportunity to conduct a review of its legislative, judicial and administrative functions in order to evaluate their impact on human rights in general and torture in particular. Zambia was currently reforming its Constitution and had for the purpose convened a national constitutional conference with a membership made up of members of the legislature, members of organizations in civil society – including religious organizations – institutions of State, occupational organizations, the Human Rights Commission and traditional chiefs. The conference had been convened in pursuance of article 3 of Act No. 19 of 2007 and had met for the first time in December 2007. Its remit included examination of the report of the Constitutional Review Commission and adoption of a draft Constitution. A number of committees had been set up within the conference, including a Human Rights Committee, which was chaired by the Director of the Human Rights Commission. The Government had thus ensured the participation of Zambian citizens in the preparation of the final text of the Constitution inasmuch as it was consulting them on the nature of the rights and the principles of equity and equality they wished to see enshrined therein.

4. However, it had to be recognized that the Government was faced with all manner of challenges – described in the report – which sometimes rendered the full achievement of the rights protected by the Convention difficult. Even so, it remained firmly attached to the protection and promotion of human rights and

fundamental freedoms; that was attested to by the chapter on the sound management of public affairs in the Fifth National Development Plan (2006-2010).

5. Mr. MARIÑO MENÉNDEZ (Rapporteur for Zambia) observed that Zambia was clearly determined to advance, protect and promote human rights. Evidence of that determination was to be found in the different action plans and the Fifth National Development Plan (2006-2010) covering the field of human rights and especially economic, social and cultural rights. However, its endeavours in the area of human rights were being hampered by a number of factors: Zambia was a developing country with a population made up of 70 ethnic groups and had in addition to cope with a wide range of problems deriving from the decolonization process. Unlike its neighbours, and notwithstanding the political difficulties of the 1990s, it had not experienced any serious domestic crises. In fact, it had shown considerable generosity in accepting large numbers of refugees and displaced persons from those countries, not to mention immigrants from other continents.

6. Zambia had not incorporated a definition of torture in line with article 1 of the Convention into its domestic legislation. Admittedly, article 15 of the Constitution established the right of all persons not to be subjected to torture or other ill-treatment; but that recognition of principle had not been followed by a definition of torture as a crime or offence in the Penal Code. No progress had been made with the reform of Zambian criminal law, and the Penal Code, while criminalizing a number of acts related to torture, did not declare torture punishable *per se*. The replies to questions 8 and 9 in the list of issues described in detail acts which could be deemed to be acts of torture and were designated as criminal offences, but it did not designate them as torture. The Convention required States parties to include a definition of torture in their domestic legislation. It was doubtful whether the offences designated as such in the Penal Code covered every aspect of torture as defined in the Convention.

7. There was an element of ambiguity in the written reply to question 9, in which the State party was asked for information on the use of the legislation currently in force for the prosecution of persons committing offences that constituted torture. He asked what was meant, in a context of torture, by the statement that the provisions of the relevant legislation were applicable to all officials of State acting outside the framework of their functions or their field of competence. To discharge in full its obligations under the Convention the State party had only to incorporate the definition of torture into its domestic law.

8. Zambia had adopted a two-stage system under which the provisions of international treaties were not directly applicable in domestic law. However, according to the information provided by the State party, the human rights standards laid down in international instruments were occasionally invoked in domestic courts. He asked whether a Zambian court hadever admitted a complaint relating to a violation of an article of the Convention, and particularly of article 1.

9. Regarding articles 2 and 4 of the Convention, and particularly the safeguards which States parties were required to establish to prevent torture, he recalled General Comment No. 2, on the implementation of article 2 by States parties, which the Committee had recently adopted. He asked who had the power to arrest a suspect and, if the police had that power, whether prior issue of a warrant for the arrest was necessary, and in what cases a warrant was unnecessary. He also asked by how long the period of detention could be extended for purposes of interrogation

beyond the end of the additional period (which was usually 24 hours), and whether the judiciary had a say in the decision to extend detention.

10. According to certain sources, the duration of pretrial detention was often excessive. The Committee wished to know whether it was true that there had been cases of individuals being held in pretrial detention for 4 years. In that connection it would be interesting to know the length of time taken up by investigations into crimes and offences in respect of which a person had been charged and was in pretrial detention.

11. The Committee wished to know whether the police code of ethics was legally binding and the name of the authority monitoring the actions of police officers during interrogation or the treatment of persons whose pretrial detention had been particularly protracted. There was an authority – the Inspectorate-General of Police – which received complaints of illicit acts committed by police officers; it would be useful to know what its actual functions were. For instance, had it powers to initiate legal proceedings against police officers? Or could it dismiss them? Onserving that no officer of the law enforcement services had ever been convicted for acts of torture or abuse of authority; he asked whether the inspectorate could initiate criminal proceedings against law enforcement personnel it suspected of having engaged in ill-treatment (or even torture) during an investigation. There was another body – the authority responsible for judicial complaints; did the activities of that body complement those of the Inspectorate-General of Police? and, if so, when one of those bodies took up a case, did the other refrain from involvement or on the contrary, was there was a sharing of competence? The role of each should be clearly defined so as to ensure that persons committing acts of torture or ill-treatment did not escape punishment. The Committee would like information on the role of the Office of the Director of Public Prosecutions – and in particular of the Attorney-General – in the opening of investigations.

12. The registration of detainees was a major safeguard for persons deprived of liberty. There appeared to be serious shortcomings in the keeping of registers, of the very existence of which detainees seemed unaware. The Human Rights Committee had received a communication from a Zambian national alleging that he had been subjected to torture while in detention; it could only establish that the name of the person concerned did not appear on any register of prisoners. Information was needed on practice regarding the keeping of registers. Inspections of places of detention were also an important means of ensuring the protection of often highly vulnerable persons, and the Committee wished to know whether expeditious and efficient inspection machinery with the task, inter alia, of receiving and acting on complaints by detainees, had been established.

13. It appeared that the law on prisons did not cover cases of violations of the rights of women in detention; that was a shortcoming. However, the Ombudsman, the Commission of Inquiry , which was responsible for investigating specific acts of negligence committed by public officials, and the Human Rights Commission had the power to visit prisons and report all abnormal situations. The Human Rights Commission was an important body which should be given greater financial resources, without which it would be unable to continue to discharge its supervisory functions.

14. In the context of articles 2, 4 and 16 of the Convention the Committee was concerned about the practice of deprival of food as a punishment in prisons and the

setting of the age threshold for criminal responsibility at the particularly low age of 8 years.

15. On the subject of the death penalty, the Committee was not only concerned with its abolition; it was also concerned that keeping a prisoner on "Death Row" for years might constitute ill-treatment or even torture. Admittedly, a moratorium on executions had been in force since 1997; but there were still 200 prisoners on Death Row; one of them had been there for 27 years. The Committee always recommended non-abolitionist States parties to restrict the application of the death penalty, to issue many more pardons and to decide that any person sentenced to death whose execution had not taken place after a certain number of years would never be executed.

16. The right to the assistance of counsel during interrogation appeared to be established in the Legal Aid Act and guaranteed by the bodies responsible for ensuring that persons of insufficient means received it. It would be of interest to know whether the right of detainees to contact their families immediately nd to receive medical treatment was similarly protected, and whether physicians, and particularly forensic physicians, regularly visited detention centres and prisons to investigate the state of health of the inmates and to report with complete independence any ill-treatment or acts of torture which the latter might have suffered. In a number of countries prisons were breeding-grounds for diseases , including AIDS, and should form the subject of precisely targeted investigations.

17. Customary law and the practices deriving therefrom were subordinate to statute law. In actual fact, however, decisions of customary law courts, though subject to appeal in the courts established by law, were sometimes final, and defendants did not resort to the remedies available, often because they were not aware of their existence. That was particularly the case with regard to intra-family violence, a subject on which no specific legislation existed. Information was needed on the measures taken by the State party to ensure that matters relating to the family and intra-family violence, which also raised the problems of women's rights, were governed by statute as opposed to customary law.

18. In connection with article 3, the *Attorney-General* v. *Roy Clarke* case seemed to confirm that administrative expulsion decisions were subject to review by the courts based on the principle of non-refoulement; but the Committee wished to be sure that such was the case. It would be of particular interest to know whether the revision of the Refugees Control Act and the Immigration and Deportation Act offered an opportunity of appeal to the High Court, and even the Supreme Court, to challenge an expulsion order issued by the Ministry of the Interior when the person to be expelled was at personal risk of being subjected to torture in the country of return.

19. Paragraph 15 of the report of the State party indicated that measures in the area of asylum or the granting of refugee status had been adopted in cooperation with the Office of the United Nations High Commissioner for Refugees. Further information on the nature of that cooperation would be useful, particularly on the question of whether the Office of the High Commissioner had a consultative role in final decision-making or whether its role was limited to the provision of information. Paragraph 48 (b) of the report stated that the immigration services issued temporary permits to prohibited immigrants rather than keep them in prison. More detailed

information on the conditions governing the issue of those permits and their periods of validity would be welcomed.

20. The State party had not given a written response to the questions concerning articles 5-9 of the Convention. As regards the establishment of the competence of the State to ensure jurisdiction over crimes of torture wherever committed (question 10), the State party had merely indicated (in paragraph 19 of the report) that there were no new measures to report on. Consequently a doubt subsisted as to whether Zambia had, as required by the Convention, taken the measures necessary to establish its jurisdiction over crimes of torture where the alleged offenders, whether Zambian or foreign nationals, were present in its territory. The Committee hoped that the delegation could enlighten it on the subject.

21. It appeared that deeply-rooted prejudices against homosexuality still existed in certain tribes and that that was one of the reasons why homosexuality was still an offence in criminal law. If that was the case, the State party should take measures to remedy the situation.

22. Zambia had not yet ratified the Optional Protocol to the Convention against Torture. The Committee customarily recommended all States parties which had not already done so to ratify the Protocol, since that offered them a more effective means of preventing all forms of torture and cruel, inhuman or degrading penalties and treatment. It therefore encouraged Zambia to proceed to ratification. The Committee also wished to know whether Zambia was contemplating ratification of the Convention on the Prevention and Punishment of the Crime of Genocide and the Rome Statute of the International Criminal Court, and whether it intended to make the declaration provided for in articles 21 and 22 of the Convention – a step which the Committee also recommended.

23. Mr. KOVALEV (Co-Rapporteur for Zambia) noted with satisfaction that the State party had made considerable progress since consideration of its first report in 2001. However, there were still a number of shortcomings hampering the full implementation of the Convention. In the field of training, the different workshops and other educational activities on human rights organized for the police forces and prison personnel were positive steps; but they did not meet the purpose of article 10, namely the provision of education on the prohibition of torture, not only to law enforcement personnel,, but also to medical personnel and other public officials who might be involved in the custody, interrogation or treatment of any individual deprived of liberty. The Committee therefore wished to know whether there were rules or instructions applicable to those categories of employees expressly prohibiting torture; the State party was requested, if such rules or instructions existed, to provide copies.

24. The adoption in 2003 by the Ministry of Internal Affairs of directives containing rules to be complied with in the interrogation of suspects and the treatment of detainees, the fact that confessions were not taken into consideration by the courts unless the police had secured other independent evidence and the efforts made to introduce more scientific methods in investigations unquestionably constituted progress in the împlementation of article 11 and were deserving of praise. Even so, for as long as torture was not defined as a specific criminal offence, officers guilty of acts of torture would remain unpunished. The Committee wished to know whether the State party intended to include a definition of torture in line with that given in the Convention in its Penal Code. The delegation might also

indicate whether the Supreme Court had handed down a ruling prohibiting illegally obtained evidence from being taken into consideration.

25. A non-governmental organization concerned with prisons had stated that the number of prison inmates had more than quadrupled since Zambia had become independent in 1964 but that the prison infrastructure had remained unchanged, with the result that living conditions in prisons had deteriorated catastrophically. Overcrowding was one symptom, but not the only one. In addition, sanitary conditions were abysmal, especially in some prisons in the central province, which had no ventilation or running water at all; food rations were inadequate and of poor quality; infectious diseases spread rapidly on account of promiscuity and the absence of medical care; violence among prisoners was exacerbated by poor conditions of detention and was difficult to control because of insufficient numbers of guards; there were no separate quarters for minors and women; etc. According to the Directorate-General of the Prisons Service, 114 prison officers and 449 inmates had died in 2006 on account of the lamentable sanitary conditions in some prisons. The problems observed were so serious as to call for urgent action by the State party. Any information the delegation could provide on that subject would be very useful.

26. The fact that torture was not a criminal offence prevented the full implementation of articles 12 and 13 of the Convention. A commission of inquiry responsible for examining complaints alleging acts of torture or ill-treatment had been set up; but it would be unable to fulfil its task for as long as victims did not know that it existed or that they could address complaints to it. Information concerning the steps taken to disseminate awareness in that context would be welcomed.

27. The previous report indicated that the Zambian legal system guaranteed the right to obtain redress and to be fairly and adequately compensated, as required in article 14 of the Convention. It would be of interest to know which legal text contained the relevant provisions. Up-to-date statistics on the numbers of applications for redress submitted by victims of acts of torture and of those which had led to the award of adequate compensation would be useful.

28. In its previous report Zambia had implied that statements obtained by torture were not automatically rejected in legal proceedings. The Committee asked whether the State party was now ensuring that statements obtained by torture could not be used as evidence in any proceedings, as it was required to do under article 15 of the Convention.

29. The Committee noted with appreciation the efforts being made by the State party to prevent the cruel, inhuman or degrading treatment of persons deprived of liberty, in particular by building new detention centres to reduce overcrowding in prisons and creating separate quarters for delinquent minors; but the measures taken were far from adequate. The principle of separation of categories of inmates – men, minors, women – was not respected, and structures and staff necessary to meet the specific needs of women inmates, and particularly those of pregnant women and women with children, were lacking. Information on the measures taken by the State party to improve the situation of women deprived of liberty would be useful.

30. The age of criminal responsibility, which was set at 8 years in the law, was not in line with international standards on the rights of the child and should therefore be

raised. In 2000 the State party had created a juvenile justice system, but unfortunately that step had not been accompanied by a coherent strategy to improve access by minors to the courts at local level. In addition, the shortage of competent staff in the legal aid service meant that very often minors were not even defended by legal counsel. Thus there was much to be done to improve juvenile justice.

31. According to the national Human Rights Commission, itherto no rehabilitation centre for victims of torture had yet been established. It would be of interest to know whether the State party was contemplating the establishment of an institution of that kind.

32. Ms. BELMIR said that some of the provisions of the domestic law of the State party gave rise to de facto discrimination against refugees. The Committee on the Elimination of Racial Discrimination, in its concluding observations (CERD/C/ZMB/CO/16), had recommended amendment of article 23 of the Zambian Constitution on the grounds that it authorized extended restrictions to the prohibition of discrimination against non-citizens; that was a violation of the principle of non-discrimination. The reform under way possibly offered an opportunity to give effect to that recommendation. The explanations given in the report (para. 13) concerning the Refugees Control Act and the Immigration and Deportation Act gave the impression that refugees in general were considered a threat to security and that immigrants were considered undesirable. The delegation might indicate whether those considerations did in fact apply to all refugees and immigrants or only to some of them.

33. The ranking of the different legal standards was not clearly enough established. The primacy of statute law over customary law was not reflected in practice. The population was often ignorant of the law and was consequently unable to invoke the rights deriving from it; the result was that in practice customary law predominated. That situation was particularly prejudicial to women, since customary law disadvantaged them in a number of respects. There was consequently a considerable effort to be made in the area of awareness promotion, not only to inform the population of its rights but also to make international human rights standards a point of reference in the minds of everyone.

34. The information in the report did not give a clear understanding of the respective functions of the police and the judiciary. Moreover, according to paragraph 34 of the report, Act No. 16 of 2004 (the Prisons (Amendment) Act) assigned powers to the prison administration which in principle belonged to the judicial authorities. Information was needed on whether decisions by officials of the prison administration under that Act were subject to judicial review.

35. The report mentioned a number of obstacles hindering the smooth functioning of the machinery of justice and in particular the lack of institutional capacity and the shortage of numbers in the police force. Further information on the manner in which complaints against law enforcement officials were handled would be useful.

36. The statistics established by the National Human Rights Commission on the complaints it had received did not match the corresponding statistics produced by the State party and particularly those for 2006, in which the Commission reported a substantial increase in the numbers of complaints referred to it. Those discrepancies called for explanations.

37. On the subject of minors it was observed that the age of entry into adulthood was the onset of puberty in customary law and age 15 in statute law but that the age of criminal responsibility was set at age 8. The State party must standardize the definition of the child and enforce that definition in every sphere, particularly that of juvenile justice.

38. Ms. SVEAASS noted with satisfaction that women were in a majority in the delegation. Referring to question 26 in the list of issues, which related to incidents occurring in 2006 when street children were shot down by the police, she asked whether the State party had adopted a global strategy to check the growing numbers of street children in accordance with the recommendation made by the Committee on the Rights of the Child in its concluding observations at the end of its consideration of Zambia's initial report (CRC/C/15/Add.206, para. 69 (a)).

39. According to information received from non-governmental organizations, although corporal punishment was prohibited in Zambia, section 71 (para. 1, subpara. (e)) of the Juveniles Act , which authorized courts to sentence a minor convicted of an offence to a certain number of strokes of the cane, had not been abrogated. Moreover, the maintenance of that provision was incompatible with the decision of the Supreme Court in the *Banda* case. In that case, which had become established in case law, the Supreme Court had concluded that corporal punishment was a violation of the provisions of the Constitution prohibiting cruel, inhuman or degrading treatment. It might be asked why the Juveniles Act had not yet been amended in the light of that decision. Finally, reports from certain sources that the rate of overpopulation in the central prison in Lusaka was of the order of 500 per cent called for comment. In its written replies the State party had not replied to all the questions in the list of issues and had undertaken to supply the missing replies orally. Of particular interest to her would be the reply given to question 43, which concerned acts of sexual violence committed against women and girls. As regards remedies open to victims of violence of that type, the report stated (para. 68) that in 1994 Zambia had set up a Victim Support Unit (a service providing assistance to women and children who were victims of violence) in every police station in the country. However, according to information received from non-governmental organizations, the service was still not fully effective 14 years after its creation. The Committee therefore wished to know to whom women and children who suffered violence could apply, and what measures the State party might take to improve the effectiveness of the Victim Support Unit.

40. According to Human Rights Watch, domestic violence was preventing a large number of seropositive women from obtaining anti-retroviral drugs and following their treatment without interruption. If such was in fact the case, how could the Zambian Government attack the problem? In conclusion, she asked whether the State party was contemplating making the declarations referred to in articles 21 and 22 of the Convention.

41. Mr. GAYE said that, after reading the report and the written replies, he had noted three major problems requiring particular mention, namely the ineffectiveness of investigations opened into allegations of ill-treatment, overcrowding in prisons and the fact that powers which should in principle rest with the public prosecutor's office had passed into the hands of the judicial police. Since the State party did not have the resources or the qualified personnel to deal with these problems, it might attempt to tackle them at an earlier stage of their development, in other words, by

concentrating on prevention. It could, in particular, take measures to ensure that suspects with the necessary means could enjoy the services of legal counsel as soon as the preliminary investigations began. That measure would have a dissuasive effect on law enforcement personnel who might be tempted to subject a suspect to torture or ill-treatment. Lastly, the delegation might say whether the State party was contemplating ratification of the Optional Protocol to the Convention.

42. Ms. GAER said that her questions and observations related primarily to the situation of women, who formed the subject of questions 22, 40, 41 and 43 in the list of issues. According to information received from non-governmental organizations, the high number of cases of sexual violence inflicted on women appeared to be due to the fact that rape was not an offence in Zambian law. If that were the case, the delegation might state whether rape victims could invoke the very general provisions of the Penal Code concerning assault and battery in order to obtain justice. The delegation might also state whether machinery for monitoring sexual violence had been established.

43. According to information supplied by Human Rights Watch, there were no training programmes on violence against women in Zambia. However, according to the reply to question 18 in the list of issues, measures had been taken to include the detection of sequelae of torture in the training of medical personnel. Since sexual violence was a form of torture, it would be of interest to know whether that element was included in the training programmes and, if not, when measures would be taken to repair that omission.

44. According to the report of the United States Department of State on the human rights situation in Zambia, the guards in detention centres for women were usually men and it was current practice for them to demand sexual favours from inmates in exchange for their release. That information called for comment. In addition, information was needed on whether investigations into these practices had been initiated and what the outcome had been.

45. In July 2007 the Ministry of the Interior had presented statistics to Parliament showing, inter alia, that 40 cases of police brutality had been referred to the courts; two cases had been tried, and 38 were still pending. The Committee wished to know whether those 38 cases had since been taken up by the courts. It also wished to know what decision had been handed down by the court hearing the case of Nyangwali, a young man who had been beaten up by the police in March 2006 in the town of Kapiri Mposhi.

46. According to various sources, the financing, the independence and the powers of the Human Rights Commission were giving cause for concern. It would be useful to know whether that body could raise and receive funds on its own initiative and whether the Zambian Government restricted its freedom of action in that sphere.

47. Lastly, the Committee wished to know whether derivative evidence could be adduced during proceedings and whether there had been cases of an accused person challenging the legality of the use of such evidence and being acquitted on the grounds that his or her statements had been obtained by torture.

48. Mr. WANG Xuexian emphasized that the absence of a definition of torture in Zambian legislation was a shortcoming of a nature to make for the impunity of persons committing acts of torture. According to the written replies and the report, some provisions in the Penal Code made punishable specific acts which might be

constituent elements of torture, while other provisions criminalized acts classified as ill-treatment. Explanations of the criteria applied by the State party to distinguish between the two categories of acts would be welcome. Moreover, the penalties set for certain offences deemed to fall within the category of acts of torture were much less severe than those for offences in the category of ill-treatment. The situation called for explanations on the part of the delegation on the manner in which the State party envisaged the implementation of articles 1 and 16 of the Convention.

49. As regards the situation in the prisons, the Committee was fully aware of the serious problems, including the insufficiency of resources and personnel, facing the Zambian authorities. It nevertheless considered that all States parties to the Convention, whatever their levels of development, should endeavour to comply with the provisions of the Standard Minimum Rules for the Treatment of Prisoners.

50. The CHAIRPERSON, like Ms. Sveaass, noted that women were in the majority in the delegation. Returning to the subject of the incorporation into domestic law of the definition of torture given in article 1 of the Convention, he recalled that one of the reasons why the Committee laid particular emphasis on that point was that in international law torture was one of the crimes not subject to statutory limitation; that was not the case with the offences mentioned in the reply to question 2 in the list of issues. It had to be understood that torture could not be reduced to the sum of its constituent elements; no list of offences, however exhaustive, could ever replace an article in the law on the specific subject of torture, which was a crime the specific nature of which derived from its imprescriptibility. It also had to be remembered that some offences were extraditable only if they were designated as criminal offences in both the requesting and the requested States. In cases where the courts did not declare themselves competent to try an alleged torturer, the absence of a definition of torture in Zambian law might constitute an obstacle to extradition. Moreover, the State party had every interest in having the clearest possible legislation. The fact that torture was covered by a considerable number of different provisions could give rise to confusion and cause prejudice to both legal practitioners and victims. For all those reasons the Committee considered it essential that the competent authorities of the State party should draw up and adopt legal provisions expressly making torture a distinct criminal offence.

51. Additional information would be welcomed on the Council of Ministers memorandum, referred to in the reply to question 1 in the list of issues, on the transposition of the Convention into domestic law. According to the report (para. 21), chapter 94 of the Extradition Act authorized Zambia to extradite individuals to and from Commonwealth countries. It would be of interest to know whether Zambia could also extradite individuals to States other than Commonwealth States and, if that were not the case, whether that fact created a legal vacuum. .

52. In conclusion, while fully aware of the limited resources available to Zambia for the collection of statistics, the Committee would like information on the manner in which the State party collected data. It awaited with considerable interest the oral replies which the delegation had undertaken to give to questions 11 to 16 in the list of issues and invited it to continue the dialogue at a later meeting.

The first (public) part of the meeting ended at 12.05 p.m.