



International Covenant on Civil and Political Rights

Distr.: General
11 April 2023

Original: English

Human Rights Committee

Concluding observations on the fourth periodic report of Zambia*

1. The Committee considered the fourth periodic report of Zambia¹ at its 3962nd and 3963rd meetings,² held on 2 and 3 March 2023. At its 3986th meeting, held on 20 March 2023, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the fourth periodic report of Zambia and the information presented therein, while regretting the considerable delay in its submission. It expresses appreciation for the opportunity to renew its constructive dialogue with the State party's high-level delegation on the measures taken during the reporting period to implement the provisions of the Covenant. The Committee is grateful to the State party for its written replies³ to the list of issues,⁴ which were supplemented by the oral responses provided by the delegation, and for the additional information provided to it in writing.

B. Positive aspects

3. The Committee welcomes the adoption by the State party of the following legislative measures:

- (a) The Anti-Gender-Based Violence Act (Act No. 1 of 2011);
- (b) The Education Act (Act No. 23 of 2011);
- (c) The Gender Equity and Equality Act (Act No. 22 of 2015);
- (d) The Mental Health Act (Act No. 6 of 2019);
- (e) The Legal Aid Act (Act No. 1 of 2021);
- (f) The Children's Code Act (Act No. 12 of 2022);
- (g) The Anti-Human Trafficking Act (Act No. 16 of 2022);
- (h) Amendments to the Penal Code (No. 23 of 2022, repealing the criminalization of defamation of the President, and No. 25 of 2022, abolishing the death penalty).

4. The Committee also welcomes the ratification of, or accession to, the following international instruments by the State party:

* Adopted by the Committee at its 137th session (27 February–24 March 2023).

¹ [CCPR/C/ZMB/4](#).

² See [CCPR/C/SR.3962](#) and [CCPR/C/SR.3963](#).

³ [CCPR/C/ZMB/RQ/4](#).

⁴ [CCPR/C/ZMB/Q/4](#).



- (a) The Convention on the Rights of Persons with Disabilities, on 1 February 2010;
- (b) The International Convention for the Protection of All Persons from Enforced Disappearance, on 4 April 2011;
- (c) The African Charter on the Rights and Welfare of the Child, on 2 December 2008;
- (d) The Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, on 28 December 2022.

C. Principal matters of concern and recommendations

Constitutional and legal framework within which the Covenant is implemented

5. While noting the progress in the constitutional review process of the State party, the Committee remains concerned about incompatibilities in national legislation, including the Bill of Rights, with the Covenant. The Committee is also concerned that customary law and the application thereof are not fully compliant with the Covenant. The Committee regrets the lack of information provided on the implementation of its Views in the State party during the follow-up process and on the application of the Covenant by domestic courts. While welcoming the establishment of the national mechanism for reporting and follow-up, the Committee is concerned that the body has not yet been constituted (art. 2).

6. The State party should strengthen its efforts, including through the constitutional review process, to ensure the compatibility of its statutory and customary law with the Covenant. The State party should give full effect to the Committee's Views and ensure access to effective remedies when violations of the Covenant are committed. The State party should raise awareness about the Covenant and its applicability in domestic law among judges, lawyers and prosecutors to ensure that its provisions are taken into account by the courts. It should speed up constituting the national mechanism for reporting and follow-up to enable its effective functioning and allow it to benefit from further capacity-building support from the Office of the United Nations High Commissioner for Human Rights.

National human rights institution

7. While welcoming the progressive increase in budgetary allocations to the Human Rights Commission, the Committee is concerned that the Commission continues to face challenges in its independent and effective functioning, including with respect to financial autonomy, the decentralization of its services, the recruitment of full-time members and the minimum term and the grounds and process for dismissal of commissioners, as noted by the Global Alliance of National Human Rights Institutions (art. 2).

8. The State party should continue its efforts, including through implementing the recommendations of the Global Alliance of National Human Rights Institutions, to ensure that the Human Rights Commission fully complies with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and is able to carry out its mandate effectively and independently.

Anti-corruption measures

9. While noting measures taken by the State party to address corruption, the Committee is concerned about the delays in concluding corruption cases in courts, complaints about the poor performance of integrity committees and the lack of capacity of prosecutors and judges to efficiently deal with corruption cases (art. 2).

10. The State party should increase the capacity of the judiciary, prosecutors and members of integrity committees, including through training, and provide them with adequate technical, human and financial resources to deal with cases of corruption speedily and efficiently.

States of emergency

11. Referring to its previous concluding observations,⁵ the Committee reiterates its concern about a lack of clarity governing states of emergency and states of threatened emergency in articles 30 and 31 of the Constitution, derogations that may be applied under article 25 of the Constitution and the compatibility of those provisions with article 4 of the Covenant (art. 4).

12. The State party should review article 25 of the Constitution to bring it into line with article 4 of the Covenant and ensure that states of emergency are applied in compliance with the Covenant.

Non-discrimination

13. The Committee is concerned about the incompatibility of article 23 of the Constitution with the Covenant, in particular clause (4) (c), under which women are excluded from protection against discrimination in matters such as adoption, marriage, divorce, funerals, devolution of inheritance and other personal law matters. The Committee is also concerned about discrimination against women and girls, in particular in rural areas, in their inheritance rights and ownership of land, housing and livestock owing to prevalent customary practices (arts. 2, 3 and 26).

14. The State party should continue its constitutional review process to bring article 23 of the Constitution into line with the provisions of the Covenant. It should also step up its efforts to counter discriminatory customary practices affecting women and girls, including with respect to inheritance rights and ownership of land, ensuring that, inter alia, inheritance matters are adjudicated fairly without discrimination between men and women, in particular in rural areas.

15. Referring to its previous concluding observations,⁶ the Committee remains concerned about:

(a) Criminalization of same-sex relationships between consenting adults in sections 155, 156 and 158 of the Penal Code and the lack of efforts made by the State party to repeal those provisions;

(b) Allegations of increased harassment and violence, perpetrated with impunity, including while in police custody, against lesbian, gay, bisexual, transgender and intersex individuals;

(c) Reported hate speech by the State party's high-level public officials and politicians instigating social stigma and prejudice against lesbian, gay, bisexual, transgender and intersex individuals (arts. 2, 17 and 26).

16. The State party should take appropriate steps:

(a) **To amend the Penal Code to decriminalize consensual sexual relations between adults of the same sex;**

(b) **To make genuine efforts to eradicate all forms of discrimination, harassment and violence on the basis of sexual orientation and gender identity and provide access to justice and remedies for victims;**

(c) **To address discriminatory attitudes, including hate speech, stigmatization and prejudice, towards lesbian, gay, bisexual, transgender and intersex persons among judges, prosecutors, law enforcement officials and the general public, including through comprehensive training and awareness-raising activities.**

Gender equality

17. The Committee regrets the lack of adequate resources directed to the implementation of legislation and policies that are aimed at strengthening gender mainstreaming efforts in

⁵ CCPR/C/ZMB/CO/3, para. 15.

⁶ Ibid., para. 24.

the public and private sectors, the abolition of the Ministry of Gender and the failure to establish and operationalize the Gender Equity and Equality Commission, as prescribed in article 231 of the Constitution. The Committee is also concerned about the low rate of women's political representation, in particular about: (a) laws and practices that have a disproportionate effect on the ability of women to run for public office, such as the minimum educational requirements for candidates prescribed by the Constitution; and (b) allegations that female candidates are subjected to violence, cyberbullying and intimidation to discourage their pursuit of public elected positions (arts. 2, 3, 25 and 26).

18. The State party should step up its efforts to guarantee gender equality in law and in practice. In particular, it should take steps:

(a) **To intensify its efforts to ensure effective equality between men and women in all spheres of society and life, in particular by taking tangible steps to increase the representation of women in decision-making positions at all levels in the public and the private sectors, including through the allocation of adequate resources, the speedy implementation of the Gender Equity and Equality Act and the constitution of the Gender Equity and Equality Commission;**

(b) **To adopt temporary special measures, such as a statutory quota and a gender parity system for nominations to government bodies, with a view to increasing the representation of women in decision-making positions at all levels of the executive, legislative and judicial branches;**

(c) **To eliminate the obstacles in law and in practice preventing women from pursuing or being elected to public positions, including through encouraging gender parity in electoral lists by political parties and ensuring accountability for political violence against women candidates during elections and the access of women candidates to an effective remedy.**

Violence against women, including domestic violence

19. While noting the measures taken by the State party to improve country-wide support for victims of gender-based violence, the Committee is concerned about the high levels of gender-based violence, in particular the number of girls subjected to sexual violence, including the harmful practice of defilement. The Committee is also concerned about the lack of efficiency of the fast-track courts, insufficient training of judges and prosecutors, lack of capacity of law enforcement officials, including transport and financial and human resources in police stations, inappropriate content in educational materials shifting the blame to victims, and withdrawal of allegations by victims (arts. 2, 3, 7, 24 and 26).

20. The State party should intensify its efforts:

(a) **To encourage the reporting of cases of violence against women, including by ensuring that all women and girls have access to multiple forms of reporting and information about their rights and available remedies;**

(b) **To investigate all allegations of violence against women, including domestic violence, prosecute and, if found guilty, punish perpetrators with penalties commensurate with the gravity of the offences, and provide victims with full reparation and means of protection, including access to adequately resourced shelters and legal assistance;**

(c) **To provide appropriate resources to and adequate training for judges, prosecutors, lawyers and law enforcement officers in handling cases of violence against women, including domestic violence;**

(d) **To strengthen awareness-raising campaigns for society as a whole, with a special focus on traditional, religious and public opinion leaders, to address harmful cultural practices that generate gender-based violence.**

Death penalty

21. The Committee welcomes the abolition of the death penalty in the Penal Code, the pledge to accede to the Second Optional Protocol to the Covenant, aiming at the abolition of

the death penalty, and the information provided by the delegation that the President commuted the sentences of all individuals on death row to life imprisonment on 8 February 2023. The Committee nevertheless remains concerned that the imposition of the death penalty remains possible under article 12 (1) of the Constitution and article 29 (1) of the Defence Act, for military crimes. The Committee is also concerned about the inability of incarcerated persons initially sentenced to death to challenge their convictions or sentences on the basis of newly discovered evidence (art. 6).

22. The State party should:

(a) **Take all necessary steps to accede to the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty, and repeal the provisions concerning the death penalty in the Defence Act and the Constitution;**

(b) **Remove procedural barriers to the reconsideration of convictions and sentences on the basis of newly discovered evidence, as suggested by the Committee in its general comment No. 36 (2018) on the right to life, and provide appropriate remedies, including compensation, to those who have been exonerated.**

Termination of pregnancy and sexual and reproductive rights

23. While noting a directive issued by the State party in 2021 allowing the performance of safe abortions by nurses, the Committee remains concerned about prohibitive conditions stipulated in the Termination of Pregnancy Act, including the requirement for the approval of three doctors and that the abortion may be carried out only in a hospital, without providing alternatives that may render a safe termination of pregnancy accessible, in particular for rural women. The Committee is also concerned that the Penal Code does not explicitly allow for termination of pregnancy resulting from rape, defilement or incest for all women (arts. 6 and 17).

24. **Bearing in mind the Committee's previous recommendations⁷ and paragraph 8 of the Committee's general comment No. 36 (2018) on the right to life, the State party should take specific steps to amend its legislation, including the Termination of Pregnancy Act and the Penal Code, as well as policies and guidelines, to guarantee safe, legal and effective access to abortion, in particular in rural areas, where the life or health of the pregnant woman or girl is at risk, or where carrying a pregnancy to term would cause the pregnant woman or girl substantial pain or suffering, most notably where the pregnancy is the result of rape or incest or where the pregnancy is not viable.**

Prohibition of torture and other cruel, inhuman or degrading treatment or punishment

25. The Committee remains concerned about an absence of an anti-torture legislation, including a definition of torture, despite the constitutional prohibition of torture, while noting information provided by the delegation about the legislative work under way. The Committee regrets the lack of information on the prosecutions and convictions for acts of torture provided by the State party, which stated that the data are not available, as torture is not criminalized in the Penal Code (art. 7).

26. **The State party should expedite adoption of the anti-torture legislation and ensure that it contains a definition of torture compliant with international law.**

Treatment of persons deprived of their liberty

27. While noting the State party's efforts to improve its correctional services and the conditions in places of detention, the Committee remains concerned about reports of inadequate conditions in detention facilities, in particular overcrowding, poor sanitation, ventilation and temperature control, food and potable water shortages, limited access to medical care, inadequate prenatal and postnatal services and the lack of complete separation of juvenile from adult detainees (arts. 7, 9, 10 and 24).

⁷ CCPR/C/ZMB/CO/3, para. 18.

28. **The State party should intensify its efforts to ensure that conditions of detention are in full compliance with relevant international human rights standards, including the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). It should, in particular:**

(a) **Take immediate measures to significantly reduce overcrowding in detention facilities, including by taking practical steps to curtail delays in the highly centralized judicial system and through the wider application of non-custodial measures as an alternative to imprisonment, as outlined in the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules);**

(b) **Intensify its efforts to improve the conditions of detention and ensure adequate access to food, clean water and health care for persons held in all places of deprivation of liberty and ensure the separation of juvenile and adult detainees, including by accelerating the building of separate child transit and reformatory centres, as prescribed in the Children's Code Act;**

(c) **Ensure that women in detention, in particular those who are pregnant or have children, have adequate access to medical care and other necessary services that meet their specific needs.**

Freedom of movement

29. The Committee is concerned about reported incidents of arbitrary restrictions on the travel of opposition leaders to some regions, allegedly to prevent them from participating in public gatherings, while noting information provided by the delegation that the restrictions have been lifted (arts. 12 and 25).

30. **The State party should guarantee freedom of movement and avoid any restrictions incompatible with article 12 of the Covenant, considering the Committee's general comment No. 27 (1999) on freedom of movement, in particular during the next election period.**

Right to privacy

31. The Committee is concerned that the Cyber Security and Cyber Crimes Act (Act No. 2 of 2021) allows for arbitrary surveillance of citizens and journalists, including seizure of information and communications equipment, on the basis of mere suspicion of law enforcement officials that a person may have committed or is in the process of committing a crime (art. 17).

32. **The State party should review the Cyber Security and Cyber Crimes Act to ensure that any surveillance activities comply with the principles of legality, proportionality and necessity, in full conformity with the Covenant, in particular article 17 thereof. The State party should also ensure that surveillance activities are subject to effective judicial oversight mechanisms and ensure access to effective remedies in cases of abuse.**

Elimination of slavery, servitude and trafficking in persons

33. While welcoming the adoption of the national policy on human trafficking and smuggling of migrants, the establishment of a national referral mechanism and the adoption of the Anti-Human Trafficking Act (Act No. 10 of 2008), as well as the submission of a draft anti-human trafficking (amendment) bill to Parliament to address the gaps in the 2008 Act, the Committee is deeply concerned about reports of trafficking in women and children, including for forced domestic work, sexual exploitation and child labour. The Committee is concerned about gaps in the identification of victims of trafficking in persons and the low number of investigations, convictions and sanctioning of perpetrators (arts. 2, 8 and 26).

34. **The State party should strengthen its measures to protect victims of trafficking in persons, in particular women and children, by, inter alia, improving proper identification of victims and providing for the effective prosecution and sanctioning of perpetrators of trafficking in persons.**

Treatment of aliens, including migrants, refugees and asylum-seekers

35. The Committee is concerned about the lack of harmonization between the Refugee Act (Act No. 1 of 2017) and the Immigration and Deportation Act (Act No. 18 of 2010), which reportedly leads to avoidable arrests and detentions. The Committee is also concerned about reports of migrants being placed in detention facilities for prolonged periods of time, alongside persons convicted of committing crimes. The Committee is further concerned about the lack of training on relevant standards and procedures provided to immigration and law enforcement officers dealing with migrants and refugees and the limited access to legal aid by migrants in detention (arts. 7, 9 and 13).

36. **The State party should:**

(a) **Take steps to harmonize its legislation and bring it into full compliance with the Covenant and international standards protecting refugees and migrants;**

(b) **Ensure that the detention of migrants and asylum-seekers is reasonable, necessary and proportionate, in accordance with the Committee's general comment No. 35 (2014) on liberty and security of person, and that alternatives to detention are used in practice;**

(c) **Provide immigration and law enforcement officers dealing with migrants and refugees with adequate training on the rights of asylum-seekers, refugees and migrants under the Covenant and other international standards;**

(d) **Ensure access to legal aid for migrants in detention facilities.**

Freedom of expression, peaceful assembly and association, and protection of journalists and human rights defenders

37. The Committee is concerned about allegations of lack of respect of the freedom of expression of political opponents, human rights defenders and journalists. The Committee is also concerned about reports that opposition political parties have been denied access to public media and that some private radio stations have been forced to stop broadcasting programmes featuring opposition political leaders. The Committee is further concerned about the delay in the adoption of the access to information bill. The Committee is concerned about reports regarding the lack of impartiality of the Independent Broadcasting Authority (arts. 19 and 25).

38. **The State party should take the necessary measures to guarantee the full enjoyment of freedom of expression by everyone, taking into account the Committee's general comment No. 34 (2011) on the freedoms of opinion and expression. In particular, the Committee urges the State party:**

(a) **To redouble its efforts to prevent harassment and intimidation of political opponents, human rights defenders and journalists, and guarantee their timely and effective protection;**

(b) **To ensure effective and non-discriminatory access of political parties, including of the opposition, to media;**

(c) **To speed up the adoption of the access to information bill;**

(d) **To take steps to ensure the impartial operation of the Independent Broadcasting Authority.**

39. While welcoming that section 69 of the Penal Code Act, on the criminalization of defamation of the President, has been repealed, the Committee is concerned that the Penal Code still contains several provisions that could be used to charge any person with criminal defamation of the President. The Committee is also concerned that section 67, on false news, remains in the Penal Code despite being declared unconstitutional by the High Court (art. 19).

40. **The State party should continue the revision of the Penal Code, including the revocation of the remaining provisions on defamation and false news, to bring them into full conformity with article 19 of the Covenant.**

41. While noting the review process of the Public Order Act, the Committee is concerned that the legal requirement of notification of peaceful assembly may amount to de facto authorization, which is incompatible with article 21 of the Covenant. The Committee is also concerned about allegations of restrictions on peaceful assemblies, such as cancelling assemblies at the last minute, arbitrary arrests, bodily injuries, deaths and property damage, especially during peaceful anti-government protests and political gatherings organized by the opposition (arts. 6, 21 and 25).

42. **In accordance with article 21 of the Covenant and in the light of the Committee's general comment No 37 (2020) on the right of peaceful assembly, the State party should:**

(a) **Expedite its efforts to revise the Public Order Act to ensure that individuals fully enjoy, both in law and in practice, their right of peaceful assembly;**

(b) **Ensure that any restrictions on the right of peaceful assembly comply with the strict requirements of article 21 of the Covenant;**

(c) **Effectively investigate all cases of the arbitrary arrest and detention of peaceful protesters, as well as acts of violence against them, by law enforcement officers, bring perpetrators to justice and provide victims with effective remedies.**

Rights of the child

43. The Committee is concerned about the lack of legislation to explicitly and clearly prohibit corporal punishment of children in all settings. The Committee is also concerned that the minimum age of criminal responsibility is set at 12 years. The Committee is seriously concerned about reports of child marriages, despite the legal age for marriage being 21 years. The Committee expresses its grave concern about reports of child labour and exploitation, in particular in mining, agriculture and domestic service (arts. 23, 24 and 26).

44. **The State party should:**

(a) **Enact legislation that explicitly and clearly prohibits corporal punishment of children in all settings, encourage non-violent forms of discipline as alternatives to corporal punishment and conduct awareness-raising campaigns about the harmful effects of corporal punishment;**

(b) **Raise the minimum age of criminal responsibility in accordance with internationally accepted standards;**

(c) **Strengthen its efforts to prevent child marriages in practice, including through awareness-raising campaigns and the involvement of families, communities and children in those campaigns;**

(d) **Speed up the taking of measures to protect children from any form of abuse and exploitation, including child labour, in particular in mining, agriculture and domestic service.**

Participation in public affairs

45. While noting the progress made in making electoral services more accessible, including for persons in detention, the Committee is concerned about the significant barriers for women, youth and persons with disabilities in exercising their right to stand for election, such as elevated nomination fees and other financial requirements for participating in political campaigns. The Committee is also concerned that the process of decentralizing the Electoral Commission has yet to be undertaken at the district level, contributing to the lack of transparency and oversight for voter registration (arts. 2, 25 and 26).

46. **The State party should ensure that its electoral regulations and practices are in full compliance with the Covenant, in particular article 25 thereof, and in the light of the guidelines for States on the effective implementation of the right to participate in public affairs by guaranteeing, inter alia: (a) the full and effective enjoyment of the right of political participation by all citizens, including women, youth and persons with disabilities; and (b) national elections that ensure fairness, transparency, inclusiveness**

and pluralism, through the provision of mixed member electoral systems and financing and the decentralization of the Electoral Commission at the district level.

D. Dissemination and follow-up

47. The State party should widely disseminate the Covenant, its two Optional Protocols, its fourth periodic report, the written replies to the Committee's list of issues and the present concluding observations with a view to raising awareness of the rights enshrined in the Covenant among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, and the general public. The State party should ensure that the periodic report and the present concluding observations are translated into the other languages of the State party.

48. In accordance with rule 75 (1) of the Committee's rules of procedure, the State party is requested to provide, by 24 March 2026, information on the implementation of the recommendations made by the Committee in paragraphs 20 (violence against women, including domestic violence), 22 (death penalty) and 26 (prohibition of torture and other cruel, inhuman or degrading treatment or punishment) above.

49. In line with the Committee's predictable review cycle, the State party will receive in 2029 the Committee's list of issues prior to the submission of the report and will be expected to submit within one year its replies, which will constitute its fifth periodic report. The Committee also requests the State party, in preparing the report, to broadly consult civil society and non-governmental organizations operating in the country. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words. The next constructive dialogue with the State party will take place in Geneva in 2031.
