



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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COMMITTEE AGAINST TORTURE

Fortieth session

Geneva, 28 April - 16 May 2008

**List of issues to be considered during the examination of the
Second periodic report of ZAMBIA (CAT/C/ZMB/2)**

Article 1

1. Please explain why the Cabinet Memorandum did not incorporate the definition of torture, contained in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“the Convention”), in the State party’s domestic law.

Article 2

2. Please detail which provisions of the Convention have been incorporated into domestic legislation (CAT/C/ZMB/2, para. 1). Can the provisions of the Convention be invoked directly before national courts?

3. Please provide information on the mandate of the Human Rights Commission, its financial and human resources and its independence. Please clarify if the Human Rights Commission’s offices in Ndola, Kasama and Mongu are already operational (CAT/C/ZMB/2, para. 6).

4. When does the State Party intend to finalize and disseminate the draft “Code of Ethics” (CAT/C/ZMB/2, para. 7)?

Article 3

5. In view of the revision of the Refugees Control Act and the Immigration and Deportation Act, does the State Party intend to incorporate the provisions of article 3 of the Convention into these Acts, thus reducing the risk of asylum-seekers and refugees being refouled (CAT/C/47/Add.2, para. 52 and CAT/C/ZMB/2, para. 12)? Do these Acts contain and define the term “refugee” (CAT/C/47/Add.2, para. 59 (c))? Does the State Party intend to include provisions for the examination of claims against refoulement and the submission of appeals in these Acts (CAT/C/SR.494, para. 21)?

6. Please inform the Committee what authorities are competent to take a decision to expel, return or extradite a person. Please provide information on the appeals procedure.

7. Please describe in greater detail with what difficulties the State Party was faced in “adequately providing for refugees” (CAT/C/ZMB/2, para. 17).

Article 4

8. Please explain why torture “is still not provided for as a specific offence under the Penal Code” (CAT/C/ZMB/2, para. 18).

9. Please provide information on the use of existing legislation for the prosecution of offences that constitute torture (CAT/C/SR.494, para. 22)?

Article 5

10. Please explain why appropriate measures have not been taken to ensure jurisdiction over crimes of torture, wherever they occur.

11. Please indicate which provisions of Zambian law govern the Court’s handling of acts of torture committed by or against the State party’s nationals.

Articles 6, 7, 8 and 9

12. Please specify what initiatives will be taken to comply with article 6, 7, 8 and 9 of the Convention, considering that acts of torture are not yet offences under criminal law.

13. Please indicate if the State Party has been requested to provide judicial assistance in connection with the criminal proceedings constituting torture, cruel, inhuman or degrading treatment? If so, please indicate what the response from the State Party has been?

Article 10

14. Please provide information on instructions and training, on the provisions of the Convention, provided for medical and military personnel.

15. Please clarify if a national policy on education and information dissemination to law enforcement officials and other public officials, who may be involved in the custody, interrogation or treatment of any individual, has been formulated. If so, please precise its scope and term (CAT/C/47/Add.2, para. 79).

Article 11

16. In 2003 the Ministry of Home Affairs issued guidelines which, inter alia, stipulate standards for the interrogation of suspects and the treatment of persons in custody (CAT/C/ZMB/2, para. 31). Please clarify how these guidelines are in conformity with the Convention and whether they contain all the necessary provisions to prevent torture and ill-treatment of persons subjected to arrest, detention or imprisonment.

17. Please indicate whether detainees are entitled to contact their relatives and have access to a lawyer from the moment of arrest, and if such access is granted in practice. Please specify the rules relating to this right.

18. The State Party’s report mentions that the Prisons (Amendment) Act No. 16 of 2004 (CAT/C/ZMB/2, para. 33) has provided for the establishment of a Health Care Service within

prisons. Please clarify if the recruitment of medical personnel has already been initiated and if so, whether they have been or will be trained to detect and deal with cases of torture and ill-treatments?

19. Please provide information on how criminal cases are handled in practical terms, in particular in respect of procedure, police custody and duration of proceedings.

20. Please further elaborate on the initiatives undertaken to “improve the treatment of prisoners and remandees”. (CAT/C/ZMB/2, para. 58)?

21. Please provide information on the frequency and the effectiveness of the visits to and inspection of prisons by the “visiting justices” and “official visitors” (CAT/C/47/Add.2, paras. 103 and 105).

Article 12

22. Please clarify how many complaints amongst the 825 received by the Police Public Complaints Authority and how many rulings amongst the 45 made were in connection with acts of torture or ill-treatments (CAT/C/ZMB/2, para. 8)? Please provide recent data disaggregated by crime, geographical location, ethnicity and gender, relating to complaints received by the Human Rights Commission. Please clarify if any actions have been taken against perpetrators and if any reparations have been provided in relation to such acts.

23. Please provide further information on the measures taken to comply with the commitment made by the State party during the consideration of its initial report to “remove the function of prosecution from the police to the Director of Public Prosecutions (DDP)” (A/57/44, para. 61 (b),(v)). In this regard please provide information on the progress made in drafting the prosecution policy and precise its content (CAT/C/ZMB/2, para. 53).

24. Please confirm whether the Police Legal and Professional Standards Unit established in 2003 is empowered to investigate allegations of torture. If this is the case, please provide information on the number of such allegations received and investigated on the types of crime to which they relate and on the outcome of investigations (CAT/C/ZMB/2, para. 61).

25. Please explain how the State Party intends to proceed with prompt and impartial investigations notwithstanding the financial and technical constraints it faces (CAT/C/ZMB/2, para. 38).

26. It has been reported that two teenagers were shot dead by police in Lusaka’s Ng’ombe compound in early September 2006 and three former street children were shot and wounded by police officers in mid-November 2006. Please provide information about the status of any investigations in respect of these cases including any prosecutions and their outcome.

27. Please clarify what steps have been taken to make the declarations under articles 21 and 22 of the Convention (CAT/C/ZMB/2, para. 52).

Article 13

28. Please describe the measures taken by the State party to disseminate information on the provisions of the Convention. Has the State Party subsequently observed a rise in the number of complaints and victims seeking redress?

29. In its initial report the State party stated that most people could not afford to bring their cases before the Courts (CAT/C/47/Add.2, para. 139). Please clarify if complaints brought before the Police Public Complaints Authority are free of charge and if complainants have access to legal aid.

30. Please indicate the measures taken by the State party to ensure that complainants and witnesses are protected against ill-treatment and intimidation.

Article 14

31. Please provide information on the number of cases in which torture victims have applied to the High Court for redress and what the results of these cases have been not question.

32. Please provide detailed information on the current status of the Human Rights Commission's programme of research, education, information and rehabilitation for victims of human rights abuses.

33. What rehabilitation mechanisms are available for victims of torture? Are such compensation and rehabilitation mechanisms available only to nationals or are they also available to other groups, such as refugees?

Article 15

34. Please explain why the State party's Courts still admit derivative evidence. How does the State party intend to bring its legislation into line with article 15 of the Convention (CAT/C/ZMB/2, para. 32)?

35. Please provide information on the law and practice relating to the admissibility of evidence obtained through torture or ill-treatment. In this connection, please clarify whether hard evidence obtained as a result of a confession continues to be introduced as evidence and how this is compatible with article 15 of the Convention (CAT/C/47/Add.2, paras. 123, 148).

Article 16

36. Please clarify how the prevailing conditions in prisons no longer constitute inhuman and degrading treatment, due to measures taken (CAT/C/ZMB/2, para. 48)? Please provide statistical information on the number of persons in detention compared to the capacity of all prisons. Please elaborate on the conditions of overcrowding in death row and on measures taken to improve conditions of detainees?

37. Please provide information on the status of the statutory instrument commuting death sentences to life imprisonment or other terms of imprisonment announced in April 2007?

38. Please provide information on whether the use of a reduced diet as punishment continues to be in force in the State party's prisons (CAT/C/47/Add.2, para. 160).

39. Please explain what steps have been taken to ensure that juvenile offenders are separated from adult offenders at all times (CAT/C/47/Add.2, para. 165).
40. Please indicate what measures have been taken to increase the number of female officers in prisons and in the police custody services. Please elaborate on the vulnerability to sexual harassment of women deprived of their liberty.
41. Please provide updated information on the process of reviewing the Penal Code and the Constitution with a view to ensuring that cases of gender-based violence are incorporated (CAT/C/ZMB/2, para. 71).
42. Please inform the Committee whether corporal punishment has de facto been eradicated in prisons and in schools. Has an information campaign been launched to raise awareness amongst parents on the use of corporal punishment as a mean of education?
43. Please explain what steps have been taken to eradicate the widespread violence, sexual-harassment and abuse of women and girls. How has the State party addressed or tried to address the belief that having sex with a virgin could cure men infected with HIV?
44. Please provide information on the measures taken to ensure that trafficking of women for prostitution is prohibited?

Other

45. Does the State party envisage the ratification of the Optional Protocol to the Convention against Torture? If so, what steps have been taken to set up or designate a national mechanism which would conduct periodic visits to places of deprivation of liberty in order to prevent torture or other cruel, inhuman or degrading treatment or punishment?
46. Please provide information on legislative, administrative or any other measures taken against terrorism and particularly on the current consideration of a legislation to counter terrorism. Please indicate whether such measures affect any legal or practical human rights guarantees and in particular if they comply with the provisions of article 3.
